

1 THE UNITED STATES DISTRICT COURT  
2 FOR THE SOUTHERN DISTRICT OF CALIFORNIA

3 HONORABLE JANIS L. SAMMARTINO  
4 UNITED STATES DISTRICT JUDGE PRESIDING

5 -----  
6 UNITED STATES OF AMERICA, )  
7 )  
8 PLAINTIFF, ) NO. 13-CR-2297-JLS  
9 )  
10 VS. ) SENTENCING HEARING  
11 )  
12 TONY LEE MCLEOD, ) JANUARY 6, 2016  
13 )  
14 DEFENDANT. )  
15 -----

16 APPEARANCES:

17 FOR THE PLAINTIFF: DAVID LESHNER  
18 CHARLOTTE KAISER  
19 U.S. ATTORNEY'S OFFICE  
20 SOUTHERN DIST. OF CALIFORNIA  
21 CRIMINAL DIVISION  
22 880 FRONT STREET, SUITE 6293  
23 SAN DIEGO, CA 92101

24 FOR THE DEFENDANT: LEILA MORGAN  
25 FEDERAL DEFENDERS OF SAN DIEGO  
225 BROADWAY, SUITE 900  
SAN DIEGO, CA 92101-5008

THE COURT REPORTER: GAYLE WAKEFIELD, RPR, CRR  
WAKEFIELDGAYLE@GMAIL.COM

1           JANUARY 6, 2016

2                           MORNING SESSION

3                   THE CLERK:   NUMBER ONE ON THE CALENDAR, 13-CR-2297,  
4           UNITED STATES OF AMERICA VS. TONY LEE MCLEOD, FOR SENTENCING.

5                   MS. KAISER:   GOOD MORNING, YOUR HONOR, CHARLOTTE KAISER  
6           AND DAVID LESHNER ON BEHALF OF THE UNITED STATES.

7                   MS. MORGAN:   GOOD MORNING, YOUR HONOR, LEILA MORGAN,  
8           FEDERAL DEFENDERS, ON BEHALF OF MR. MCLEOD, WHO IS PRESENT IN  
9           CUSTODY.

10                  THE COURT:   THANK YOU.

11                  THE COURT HAS READ AND CONSIDERED THE FOLLOWING  
12           DOCUMENTS FOR PURPOSES OF SENTENCING THIS MORNING.  I HAVE THE  
13           PRESENTENCE REPORT.  I HAVE THE ADDENDUM TO THE PRESENTENCE  
14           REPORT.  I HAVE THE DEFENDANT'S SENTENCING MEMORANDUM, WHICH  
15           HAS ATTACHED TO IT NUMEROUS LETTERS FROM FAMILY.  I HAVE OTHER  
16           DOCUMENTS IN SUPPORT.  I HAVE THE OBJECTIONS TO THE PRESENTENCE  
17           REPORT BY THE DEFENSE TO THE PRESENTENCE REPORT, AND I HAVE THE  
18           OBJECTIONS TO DR. KALISH'S REPORT THAT HAS BEEN PRESENTED TO  
19           THE COURT.  THOSE OBJECTIONS HAVING BEEN PREVIOUSLY RESOLVED BY  
20           THE COURT.

21                  FROM THE GOVERNMENT I HAVE THE FOLLOWING DOCUMENTS:  I  
22           HAVE THE GOVERNMENT'S SENTENCING MEMORANDUM.  THE GOVERNMENT'S  
23           SENTENCING SUMMARY CHART.  THE RESPONSE TO THE PSR OBJECTIONS.  
24           THE EXHIBITS IN SUPPORT OF THE SENTENCING MEMORANDUM AND  
25           RESPONSE TO OBJECTIONS.  I HAVE THE REPORT BY DR. KALISH.  I

1 HAVE VICTIM IMPACT STATEMENTS. I HAVE RESPONSES TO THE  
2 OBJECTIONS TO THE REPORT OF DR. KALISH.

3 THE COURT PRESIDED OVER A LENGTHY TRIAL IN THIS MATTER  
4 AND --

5 MS. MORGAN: YOUR HONOR, I DON'T MEAN TO INTERRUPT, BUT  
6 WE DID FILE UNDER SEAL THE REPORT OF DR. CLIPSON.

7 THE COURT: I BELIEVE IT'S ATTACHED. I HAVE READ DR.  
8 CLIPSON'S REPORT. I CAN TELL YOU WHAT IT'S ATTACHED TO.

9 MS. MORGAN: I BELIEVE IT WAS ATTACHED TO OUR MEMO.  
10 YOU MENTIONED "NUMEROUS ATTACHMENTS," I JUST WANTED TO MAKE  
11 SURE IT WAS IN THERE.

12 THE COURT: NO, IT IS IN HERE. I'M LOOKING FOR WHAT  
13 DOCUMENT IT'S ATTACHED TO. NO, I DO HAVE THAT DOCUMENT, OF  
14 COURSE.

15 MS. MORGAN: THANK YOU, YOUR HONOR. I DIDN'T MEAN TO  
16 INTERRUPT.

17 THE COURT: AS I INDICATED, I PRESIDED OVER THE TRIAL  
18 IN THIS MATTER, AND I HAVE SPENT CONSIDERABLE TIME GOING  
19 THROUGH ALL THE DOCUMENTS THAT HAVE BEEN PRESENTED IN THIS  
20 MATTER, AND I'M GOING TO ADDRESS AT THIS POINT THE COURT'S  
21 VIEWS ON MANY OF THE OBJECTIONS THAT HAVE BEEN RAISED. I WILL  
22 FOLLOW THE PATTERN THAT I NORMALLY FOLLOW IN SENTENCINGS; I  
23 WILL HEAR FROM THE DEFENSE, AND THE DEFENDANT HAS AN  
24 OPPORTUNITY. AS I HAVE ALSO ALREADY RULED, IF THERE'S ANYBODY  
25 ELSE WHO WISHES TO BRIEFLY ADDRESS THE COURT ON BEHALF OF THE

1 DEFENDANT, THEY MAY. I'LL TURN TO THE GOVERNMENT, AND ANYBODY  
2 WHO WOULD LIKE TO ADDRESS THE COURT CERTAINLY MAY ON BEHALF OF  
3 THE VICTIMS IN THIS CASE. I'LL TURN TO PROBATION, IF THERE'S  
4 ANYTHING TO ADD.

5 THE DEFENDANT HAS RAISED NUMEROUS FACTUAL OBJECTIONS TO  
6 THE PRESENTENCE REPORT. THE COURT WILL PERMIT A BRIEF  
7 OPPORTUNITY FOR THE DEFENDANT TO RESPOND, BUT THE COURT IS THUS  
8 FAR PERSUADED THAT THE CONTESTED INFORMATION BEARS SUFFICIENT  
9 INDICIA OF RELIABILITY TO WARRANT INCLUSION IN THE PRESENTENCE  
10 REPORT. THE COURT NOTES THAT IN SOME INSTANCES DEFENDANT'S  
11 CLARIFICATIONS ARE SET FORTH IN THE ADDENDUM TO THE PRESENTENCE  
12 REPORT. THE COURT IS NOT PERSUADED THAT ANY OF THE DISPUTED  
13 INFORMATION IS UNRELIABLE OR INACCURATE.

14 AS TO DEFENDANT'S LEGAL OBJECTIONS TO THE PRESENTENCE  
15 REPORT, THE COURT FINDS THAT THE GUIDELINE CALCULATIONS SET  
16 FORTH IN THE PRESENTENCE REPORT ARE CORRECT, WITH THE EXCEPTION  
17 OF THE MULTIPLE-COUNT ADJUSTMENT WHICH SHOULD BE INCREASED --  
18 SHOULD BE AN INCREASE OF FIVE LEVELS UNDER SECTION 3D1.4 AS SET  
19 FORTH IN THE ADDENDUM TO THE PRESENTENCE REPORT.

20 THE COURT DISAGREES WITH DEFENDANT'S POSITION THAT  
21 COUNTS 2 THROUGH 9 SHOULD BE GROUPED TOGETHER UNDER SENTENCING  
22 GUIDELINE SECTION 3D1.2(B). SECTION 3D1.2(B) PRECLUDES THE  
23 GROUPING OF OFFENSES THAT CANNOT BE CONSIDERED TO REPRESENT  
24 ESSENTIALLY ONE COMPOSITE HARM. THE RELEVANT APPLICATION NOTE  
25 GIVES THE EXAMPLE THAT ROBBERY OF THE SAME VICTIM ON DIFFERENT

1 OCCASIONS INVOLVES MULTIPLE, SEPARATE INSTANCES OF FEAR AND  
2 RISK OF HARM, NOT ONE COMPOSITE HARM.

3 COUNTS 2 THROUGH 9 OF THE INDICTMENT SIMILARLY INVOLVED  
4 INDEPENDENT INSTANCES OF CONDUCT, EACH RESULTING IN A SEPARATE  
5 AND DISTINCT HARM TO THE VICTIM; THEREFORE, GROUPING, PURSUANT  
6 TO SECTION 3D1.2(B), IS NOT APPROPRIATE. HOWEVER, THE COURT  
7 WILL MAKE ALTERNATIVE SENTENCING CALCULATIONS WITH RESPECT TO  
8 THIS OBJECTION.

9 THE COURT ALSO DISAGREES WITH DEFENDANT'S POSITION THAT  
10 THE UNITED STATES SENTENCING GUIDELINES SECTION 2G1.3(B)(2)(B),  
11 ENHANCEMENT FOR UNDUE INFLUENCE, SHOULD NOT APPLY TO COUNTS 10  
12 AND 11. AS THE GOVERNMENT POINTS OUT, THERE IS A REBUTTABLE  
13 PRESUMPTION THAT THE ENHANCEMENT WILL APPLY WHEN THE AGE  
14 DIFFERENCE BETWEEN THE DEFENDANT AND THE MINOR EXCEEDS  
15 10 YEARS. FURTHERMORE, THE EVIDENCE PRESENTED AT TRIAL FULLY  
16 SUPPORTS THE ENHANCEMENT.

17 THE COURT ALSO CONCLUDES THAT THE SEXUAL CONTACT  
18 ENHANCEMENT OF SENTENCING GUIDELINE SECTION 2G1.3(B)(4)(A) IS  
19 APPLICABLE TO COUNTS 10 AND 11. ALTHOUGH DEFENDANT DISPUTES  
20 THE SEXUAL CONTACT BETWEEN DEFENDANT AND MINOR VICTIM NUMBER 1,  
21 THE JURY CLEARLY CREDITED THE TESTIMONY OF MINOR VICTIM NUMBER  
22 1; THUS, THE COURT FINDS THE ENHANCEMENT TO BE APPROPRIATE.  
23 ACCORDINGLY, ALL OF DEFENDANT'S LEGAL OBJECTIONS TO THE  
24 PRESENTENCE REPORT ARE OVERRULED.

25 FINALLY, WITH RESPECT TO CONDITIONS OF SUPERVISED

1 RELEASE, THE COURT IS INCLINED TO IMPOSE THE CONDITIONS  
2 RECOMMENDED IN THE PRESENTENCE REPORT WITH THE ADDITIONAL  
3 CHANGES RECOMMENDED BY THE GOVERNMENT. THUS, THE COURT IS  
4 INCLINED TO IMPOSE CONDITIONS 2, 3, 4, 5 AND 6 AS SET FORTH IN  
5 THE PRESENTENCE REPORT.

6 CONDITION NUMBER 7 WOULD BE AMENDED TO PROHIBIT  
7 LOITERING NEAR PLACES PRIMARILY FREQUENTED BY MINORS.

8 CONDITION NUMBER 8 WOULD READ, "NOT POSSESS ANY  
9 MATERIALS SUCH AS VIDEOS, MAGAZINES, PHOTOGRAPHS, COMPUTER  
10 IMAGES OR OTHER MATTER THAT DEPICTS SEXUALLY-EXPLICIT CONDUCT  
11 INVOLVING CHILDREN," AS DEFINED BY TITLE 18 UNITED STATES CODE  
12 2256(2), "ACTUAL SEXUALLY-EXPLICIT CONDUCT INVOLVING ADULTS,"  
13 AS DEFINED BY 18 UNITED STATES CODE 2257(H)(1), "AND NOT  
14 PATRONIZE ANY PLACE WHERE SUCH MATERIAL OR ENTERTAINMENT ARE  
15 THE PRIMARY MATERIAL OR ENTERTAINMENT AVAILABLE."

16 CONDITION NUMBER 9 WOULD BE MODIFIED TO INCLUDE  
17 "PHYSIOLOGICAL TESTING, WITH THE EXCEPTION OF PENILE  
18 PLETHYSMOGRAPH TESTING."

19 WITH REGARD TO THE GUIDELINE CALCULATION, GROUPS 1  
20 THROUGH 8, WHICH ARE COUNTS 2 THROUGH 9, WHICH WERE SEXUAL  
21 EXPLOITATION OF A CHILD AND ATTEMPTED SEXUAL EXPLOITATION OF A  
22 CHILD WITH REGARD TO VICTIM NUMBER 1, THE BASE OFFENSE LEVEL  
23 WOULD BE A 32. BECAUSE OF MINORS BETWEEN THE AGE OF 12 AND 16  
24 A PLUS 2 IS ADDED. BECAUSE OF THE USE OF A COMPUTER, ANOTHER  
25 PLUS 2, SO THE ADJUSTED OFFENSE LEVEL BECOMES A 36.

1           WITH REGARD TO GROUP 9, WHICH IS COUNTS 10 AND 11,  
2           WHICH WERE TRAVEL WITH INTENT TO ENGAGE IN ILLICIT SEXUAL  
3           CONDUCT AND TRANSPORTATION OF A MINOR, THE BASE OFFENSE LEVEL  
4           WOULD BE A 28. THE UNDUE INFLUENCE WOULD ADD A PLUS 2. THE  
5           USE OF COMPUTER -- OF A COMPUTER WOULD BE ANOTHER PLUS 2, AND  
6           THE COMMISSION OF A SEXUAL ACT WOULD INCLUDE A PLUS 2,  
7           RESULTING IN AN ADJUSTED OFFENSE LEVEL OF 34.

8           GROUP 10, WHICH IS REFERRING TO COUNT 13, WHICH WAS THE  
9           ATTEMPTED SEXUAL EXPLOITATION OF A CHILD WITH REGARD TO VICTIM  
10          NUMBER 2, THE BASE OFFENSE LEVEL IS A 32, WITH A PLUS 2 ADDED  
11          BECAUSE OF A MINOR BETWEEN THE AGES OF 12 AND 16 YEARS, ANOTHER  
12          PLUS 2 BECAUSE OF USE OF A COMPUTER, SO THE RESULTING ADJUSTED  
13          OFFENSE LEVEL IS A 36.

14          SO ADDRESSING THE MULTIPLE-COUNT ADJUSTMENT, THE TOTAL  
15          NUMBER OF UNITS, ONE FOR EACH GROUP ABOVE, WOULD BE A 10,  
16          RESULTING IN A PLUS 5 INCREASE IN OFFENSE LEVEL OVER THE  
17          GREATER OF THE ADJUSTED OFFENSE LEVELS ABOVE 36, RESULTING IN A  
18          LEVEL 41 AND A GUIDELINE RANGE OF 324 TO 405 MONTHS.

19          NOW, I'VE INDICATED THAT I WOULD MAKE AN ALTERNATIVE  
20          GUIDELINE CALCULATION. IF COUNTS 2 THROUGH 9 ARE PROPERLY  
21          GROUPED PURSUANT TO GUIDELINE SECTION 3D1.2(B), THE TOTAL  
22          NUMBER OF UNITS PURSUANT TO THAT SECTION WOULD BE THREE, AND  
23          THE RESULT WOULD BE A PLUS 3 INCREASE IN OFFENSE LEVEL OVER THE  
24          GREATER OF THE ADJUSTED OFFENSE LEVELS, WHICH IS 36, SO THE  
25          TOTAL OFFENSE LEVEL WOULD THEN BE A 39, WITH A GUIDELINE RANGE

1           OF 262 MONTHS TO 327 MONTHS, AND I SAID THAT I WOULD MAKE AN  
2           ALTERNATIVE CALCULATION.

3           WITH REGARD TO RESTITUTION, THE STATE OF THE  
4           INFORMATION THAT I HAVE DOES NOT SET FORTH SUFFICIENTLY  
5           INFORMATION FOR ME TO PROCEED ON THAT TODAY, SO I'M THINKING  
6           THAT WHAT WE SHOULD DO IS DEAL WITH SENTENCING AND THEN PUT  
7           OVER ANY REQUEST FOR RESTITUTION FOR 45 DAYS OR HOWEVER MUCH  
8           TIME THE PARTIES NEED. WE CAN TAKE THAT UP AT THE END, BUT I  
9           WOULD LIKE AN ACCOUNTING OF WHAT IS BEING REQUESTED, GIVE THE  
10          DEFENSE AN OPPORTUNITY TO OBJECT, IF THERE'S ANY OBJECTION, AND  
11          REQUEST A HEARING BEFORE THE COURT RULES ON THAT. I THINK  
12          THAT'S WHAT WE SHOULD APPROPRIATELY DO THERE.

13          SO I KNOW THAT'S A LOT TO HEAR ALL AT ONE TIME,  
14          COUNSEL, MS. MORGAN, BUT THOSE ARE THE COURT'S THOUGHTS AT THIS  
15          TIME, AND I'LL TURN TO YOU NOW, MA'AM, FOR ANY COMMENTS YOU  
16          WOULD LIKE TO MAKE.

17          MS. MORGAN: CERTAINLY, YOUR HONOR. I'M GOING TO START  
18          WITH THINGS THAT I ABSOLUTELY AGREE WITH YOU ON, WHICH IS THE  
19          BIFURCATION OR THE SEPARATE HEARING FOR RESTITUTION. MS.  
20          KAISER AND I HAVE HAD A CHANCE TO MEET AND CONFER. WE ALL  
21          AGREE THERE'S NOT SUFFICIENT DOCUMENTATION, SO WE'LL GET THAT  
22          OUT OF THE WAY.

23          IN TERMS OF THE GUIDELINES DISPUTE, I STAND BY OUR  
24          LEGAL OBJECTIONS TO THE PRESENTENCE REPORT. I UNDERSTAND THE  
25          COURT HAS READ AND CONSIDERED EVERYTHING. I DO THINK THAT I'VE

1 SUFFICIENTLY SET OUT OUR POSITIONS IN THE BRIEFING IN TERMS OF  
2 WHY WE DON'T BELIEVE CERTAIN ENHANCEMENTS SHOULD APPLY IN TERMS  
3 OF THE UNDUE INFLUENCE, AND WHATNOT, AND WE'LL REST ON THOSE  
4 SUBMISSIONS. WE DO STAND BY OUR GROUPING CALCULATIONS AND THAT  
5 GROUPS 2 THROUGH 9 SHOULD PROPERLY GROUP, BUT WE'LL SUBMIT ON  
6 OUR PAPERS AS TO THOSE LEGAL OBJECTIONS.

7 THE COURT: AND I WILL MAKE THOSE CALCULATIONS.

8 MS. MORGAN: THE COURT'S INDICATED THAT. I THINK THOSE  
9 ISSUES ARE PROPERLY PRESERVED, AND SO FOR THAT WE'LL SUBMIT ON  
10 OUR PAPERS FOR THE LEGAL POSITIONS ON THOSE.

11 INSOFAR AS THE FACTUAL DISPUTES, I THINK PRIMARILY OUR  
12 CONCERNS, SOME OF WHICH WERE ADDRESSED IN THE PROBATION  
13 OFFICER'S ADDENDUM TO THE PRESENTENCE REPORT IN MAKING THE  
14 CLARIFICATIONS THAT WE REQUESTED AND EXPLAINING -- AND ADDING  
15 ADDITIONAL INFORMATION THAT THEY DIDN'T HAVE.

16 I KNOW THE COURT PRESIDED OVER THE HEARING -- OR THE  
17 TRIAL, AND THE COURT HAS ALL OF THE INFORMATION IN FRONT OF IT.  
18 OUR REQUEST THAT SOME OF THE INFORMATION BE STRICKEN IS IN  
19 LARGE PART DUE TO THE AFFECT THAT SOME OF THIS INFORMATION CAN  
20 HAVE ON MR. MCLEOD IN THE BUREAU OF PRISONS. GIVEN THAT IN  
21 CERTAIN RESPECTS -- I WANT TO BEGIN WITH THE SITUATION WITH MR.  
22 -- WITH ALEX PAPIERNIK WHERE HE WAS 17. THE GOVERNMENT'S  
23 INFORMATION IS THAT HE WAS 17. SOMEONE OFFHAND MADE A  
24 STATEMENT THAT HE WAS 16, AND THE 16-YEAR-OLD AGE WAS APPEARING  
25 IN THE PSR AND BEING USED, EVEN THOUGH THAT'S A FACTUALLY

1 INACCURATE STATEMENT OF A WITNESS, AND I THINK THAT'S OUR  
2 CONCERN WITH MANY OF THE FACTUAL DISPUTES IS THAT THERE WERE  
3 THESE LAYERS OF HEARSAY IN TERMS OF PEOPLE COULDN'T SAY WHY  
4 THEY HAD THE INFORMATION THEY HAD.

5 THAT WAS CLEAR IN TERMS OF A REPORT FROM AN EMPLOYER IN  
6 TAMPA ABOUT AN ALLEGED DOMESTIC VIOLENCE OFFENSE. THERE WERE  
7 NO POLICE REPORTS THAT BACKED THAT UP. THERE WAS NO -- THE  
8 INDIVIDUAL WASN'T SAYING, "I WAS THERE AND I SAW THIS" OR "MR.  
9 MCLEOD SAID THIS TO ME," HE JUST SAID, "THIS IS WHAT I  
10 UNDERSTOOD HAPPENED," AND THAT KIND OF INFORMATION ISN'T  
11 SUFFICIENTLY RELIABLE TO BE INCLUDED IN THE PRESENTENCE REPORT,  
12 AND I THINK THAT'S FAIRLY WELL LAID OUT IN OUR FACTUAL  
13 OBJECTIONS.

14 I UNDERSTAND THAT THE PROBATION OFFICER IS SAYING,  
15 "LOOK THESE ARE THE REPORTS WE HAD. THIS IS IS WHERE THE  
16 INFORMATION CAME FROM," AND THE COURT'S IN SOME REGARD RELYING  
17 ON THE INFORMATION THAT WAS PROVIDED TO THE PROBATION OFFICER.  
18 OUR CONCERN IS NOT THAT WHAT WAS GIVEN TO THE PROBATION OFFICER  
19 WAS SOMEHOW DONE INCORRECTLY, BUT THAT THE REPORTING PARTIES  
20 THAT PROVIDED THE INFORMATION THAT WENT IN THE REPORT, THAT  
21 WENT TO THE PROBATION OFFICER, THERE WAS NO INDICATION OF WHERE  
22 THEY RECEIVED THEIR INFORMATION FROM OR WHY WE SHOULD RELY ON  
23 IT, WHY IT SHOULD BE CONSIDERED AS TRUTHFUL. AND I THINK THE  
24 SITUATION WITH THIS ALEX PAPIERNIK, AND THE ALLEGATIONS OF  
25 DOMESTIC VIOLENCE THAT CAME FROM SOMEONE WHO MAY HAVE WORKED

1 WITH MR. MCLEOD IN THE PAST, ARE PERFECT EXAMPLES OF THE  
2 UNRELIABILITY OF THAT INFORMATION.

3 I'M NOT SURE HOW MUCH ALL OF THAT IS PLAYING INTO THE  
4 COURT'S CALCULATION OF SENTENCING BECAUSE THAT'S A SEPARATE  
5 CONCERN, BUT INsofar AS IT'S INCLUDED IN THE PRESENTENCE  
6 REPORT, THAT KIND OF INFORMATION CAN LEAD TO ISSUES WITH MR.  
7 MCLEOD'S PROGRAMMING, CAN BE USED TO ATTEMPT TO CIVILLY COMMIT  
8 HIM LATER ON, AND SO IT IS VERY IMPORTANT THAT WE ARE CERTAIN  
9 THAT ANY KIND OF ALLEGATIONS SUCH AS THAT ARE NOT JUST  
10 SUFFICIENTLY RELIABLE TO -- ARE MORE RELIABLE THAN WHAT THAT  
11 INFORMATION IS BECAUSE OF THE DOUBLE LAYERS OF HEARSAY.

12 IN LARGE PART, THE PROBATION OFFICER'S RESPONSE WAS,  
13 "LOOK, THIS WAS INFORMATION PROVIDED TO US, AND IT'S PROPERLY  
14 INCLUDED," AND DOESN'T REALLY EXPLAIN WHY WE SHOULD BE RELYING  
15 ON THAT INFORMATION, AND DOESN'T INCLUDE SOME OF THE OTHER  
16 INFORMATION THAT'S RELEVANT, YOU KNOW, WITH REGARD TO SOME OF  
17 THE THINGS THAT WERE LEFT OUT OF THE PROBATION REPORT, IN TERMS  
18 OF EXPLAINING THE FULL CIRCUMSTANCES, AND THAT'S WHERE OUR  
19 CONCERN REALLY WAS.

20 SO WITH THAT WE WILL SUBMIT ON OUR PAPERS, BUT I DO  
21 HAVE CONCERNS ABOUT THE COURT'S USE OF SOME OF THIS INFORMATION  
22 IN TERMS OF SENTENCING AND ITS APPEARANCE IN THE PRESENTENCE  
23 REPORT.

24 THE COURT: YOU'RE GOING TO GET ONE OPPORTUNITY, MS.  
25 MORGAN, TO TELL ME EVERYTHING YOU WANT TO TELL ME WITH REGARD

1 TO ANY OF THE OBJECTIONS THAT I'VE ALREADY ADDRESSED, AND WITH  
2 REGARD TO THE ISSUE OF SENTENCING ITSELF, MA'AM. SO PLEASE GO  
3 AHEAD.

4 MS. MORGAN: I'M GOING TO FLIP THROUGH -- I KNOW WE  
5 FILED RATHER LENGTHY OBJECTIONS, SO IT'S HARD FOR ME TO NOT  
6 JUST GO THROUGH.

7 IN TERMS OF OUR OBJECTIONS THAT THE PROBATION OFFICER  
8 LEFT OUT ALL OF THE COMMUNICATIONS FROM JOHNATHAN TO MR.  
9 MCLEOD, DESCRIBING THAT HE HAD THIS HORRIBLE LIFE AND ALL THOSE  
10 THINGS --

11 THE COURT: PLEASE, LET'S REMEMBER I TRIED THIS CASE.

12 MS. MORGAN: RIGHT.

13 THE COURT: AND THIS CASE WILL NOT BE FORGOTTEN BY THE  
14 COURT OR BY ANYBODY ELSE WHO SAT THROUGH THIS TRIAL, MA'AM, SO  
15 I WILL UNDERSTAND THAT.

16 AS FAR AS SENTENCING GOES, I'M PREDOMINANTLY  
17 INFLUENCED, IF NOT EXCLUSIVELY INFLUENCED, BY WHAT I HEARD AT  
18 THE TRIAL. NOW, I KNOW THAT DOESN'T ADDRESS YOUR CONSIDERATION  
19 FOR THE BUREAU OF THE PRISONS, THAT'S THE OTHER ISSUE, BUT FOR  
20 SENTENCING PURPOSES I THINK YOU CAN RELY ON THAT.

21 MS. MORGAN: I WAS GOING TO SAY THAT DOES GIVE ME SOME  
22 GUIDANCE IN TERMS OF, YOU KNOW, WHERE WE NEED TO PLACE OUR  
23 EMPHASIS SO TO SPEAK.

24 I THINK THE PROBATION OFFICE DID CLARIFY -- I WANT TO  
25 ADDRESS SPECIFICALLY THE GUN FOUND IN THE CAR -- IN MR.

1 MCLEOD'S CAR AT THE AIRPORT, WHICH WASN'T PRODUCED AT TRIAL, IT  
2 WASN'T AN ISSUE AT TRIAL, AND THE INCLUSION OF THAT AS PART OF  
3 THE OFFENSE CONDUCT. THERE IS NO DISPUTE THAT THAT GUN WAS  
4 LAWFULLY REGISTERED TO MR. MCLEOD, THAT IT WAS LAWFULLY IN HIS  
5 POSSESSION, AND THERE'S NO ALLEGATION THAT AT ANY TIME ANYONE  
6 WAS THREATENED BY THE GUN, SAW THE GUN, THAT IT WAS ANYTHING  
7 OTHER THAN THE GUN THAT WAS PROPERLY KEPT IN MR. MCLEOD'S  
8 VEHICLE.

9 I UNDERSTAND THAT IN SAN DIEGO IT IS ODD FOR PEOPLE TO  
10 HAVE GUNS IN THEIR CAR, BUT IN TAMPA, FLORIDA, THAT'S ACTUALLY  
11 A PRETTY NORMAL THING WHEN PEOPLE HAVE REGISTERED WEAPONS, THEY  
12 HAVE THEIR PROPER PERMITS, THEY DO JUST KEEP THEM IN THEIR CAR.  
13 IT IS NOT AN ABNORMAL SITUATION. I DON'T BELIEVE THAT THAT WAS  
14 PROPERLY INCLUDED AS PART OF THE OFFENSE CONDUCT.

15 THERE'S NO INDICATION AT ANY TIME THAT ANYONE WAS EVEN  
16 AWARE OF THAT GUN, JOHNATHAN SPECIFICALLY, UNTIL WELL AFTER MR.  
17 MCLEOD AND JOHNATHAN WERE ARRESTED. I KNOW THAT THE REVELATION  
18 REGARDING THAT GUN, THAT THERE WAS THIS GUN FOUND IN THE CAR,  
19 HAS BEEN ADDRESSED IN TERMS OF THE VICTIM IMPACT STATEMENTS AND  
20 THE AFFECT THAT THAT HAD ON THEM, WHICH IS UNDERSTANDABLE IN  
21 SOME REGARD, BUT IS ALSO SOMEWHAT SEPARATE -- IT'S JUST  
22 SEPARATE FROM THE OFFENSE CONDUCT.

23 IT IS A FACT -- THE FACT THAT MR. MCLEOD HAD A  
24 PROPERLY-REGISTERED FIREARM I HAVE NO OBJECTION TO BEING  
25 INCLUDED IN THE PRESENTENCE REPORT, BUT I DO HAVE OBJECTIONS

1 WITH IT BEING INCLUDED AS PART OF THE OFFENSE CONDUCT BECAUSE  
2 IT'S SEPARATE FROM THE OFFENSE, AND HIS POSSESSION OF A WEAPON  
3 IN REGARDS TO HIS OFFENSE CAN AFFECT HIS ABILITY AT THE BOP TO  
4 PROGRAMS BECAUSE IF YOU ARE IN POSSESSION OF A GUN AS PART OF  
5 YOUR OFFENSE, YOU ARE PROHIBITED FROM PARTICIPATING IN CERTAIN  
6 KINDS OF PROGRAMMING.

7 AND OBVIOUSLY I WOULDN'T BE MAKING THIS OBJECTION OR  
8 HAVING THIS CONVERSATION IF THE GUN WAS ON MR. MCLEOD OR WAS IN  
9 HIS BAG OR WAS WITH HIM WHEN HE TRAVELED TO CALIFORNIA, BUT  
10 THAT'S NOT THE CASE. IT WAS IN FLORIDA, IN HIS CAR, PROPERLY  
11 REGISTERED, PROPERLY PLACED. THERE WAS NOTHING UNLAWFUL ABOUT  
12 IT, AND INCLUSION OF THAT AS PART OF THE OFFENSE CONDUCT WOULD  
13 HAVE A SEVERE IMPACT ON MR. MCLEOD'S ABILITY TO PROGRAM AND  
14 REHABILITATE WITHIN THE BUREAU OF PRISONS, AND SO WE ARE  
15 STANDING BY OUR OBJECTION THAT THAT SHOULD NOT BE INCLUDED AS  
16 PART OF THE OFFENSE CONDUCT. WHILE IT IS TOTALLY PROPER FOR  
17 THE COURT TO CONSIDER THAT MR. MCLEOD HAD GONE THROUGH THE  
18 PERMITTING PROCESS AND HAD OWNED FIREARMS LAWFULLY, IT ISN'T  
19 PART OF THE OFFENSE CONDUCT.

20 WE STAND BY ALL OF OUR -- I THINK THAT EVERYBODY HAS  
21 FLESHED OUT THE CONVERSATION ABOUT THE TENNESSEE MENTAL HEALTH  
22 INSTITUTE AND OUR INCLUSION OF THAT IN THE PRESENTENCE REPORT,  
23 AND I UNDERSTAND THE COURT'S RULING ON THAT.

24 I SUPPOSE ONE OF MY CONCERNS IS WHEN THE PROBATION  
25 OFFICER SAYS THAT OUR OBJECTIONS ARE NOTED, I'M NOT SURE HOW

1            THAT FACTUALLY -- WHAT THAT DOES TO IMPACT HOW THE PRESENTENCE  
2            REPORT IS TRANSMITTED TO THE BUREAU OF PRISONS. AS THE COURT  
3            IS WELL AWARE, POST-SENTENCING THE PROBATION OFFICE  
4            ELECTRONICALLY SUBMITS THE PSR, I BELIEVE THE ADDENDUM TO THE  
5            PSR OR ANY AMENDED PSR, ALONG WITH ANOTHER PACKET OF MATERIAL  
6            TO THE BUREAU OF PRISONS. SO WHEN IT SAYS THAT OUR OBJECTIONS  
7            ARE NOTED AND THAT THE INFORMATION WAS TAKEN FROM INFORMATION  
8            PROVIDED BY THE, YOU KNOW, THE AUSA OR WHATEVER, HOW THAT  
9            IMPACTS THE FINAL SUBMISSION TO THE BOP IS SOMEWHAT CONCERNING  
10           FOR US BECAUSE THE BOP DOESN'T GET MY OBJECTION. THE BOP  
11           DOESN'T RECEIVE MY SENTENCING MEMORANDUM. ALL THE BOP KNOWS  
12           ABOUT THIS CASE AND ABOUT --

13           (DISCUSSION HELD OFF THE RECORD.)

14           THE COURT: I'M SORRY.

15           MS. MORGAN: THAT'S OKAY.

16           THE COURT: GO AHEAD.

17           MS. MORGAN: BECAUSE OF THE SUBMISSIONS PROCESS TO THE  
18           BUREAU OF PRISONS, THEY ARE NOT PROVIDED WITH -- THE BUREAU OF  
19           PRISONS DOESN'T GET THIS WHOLE PACKET WITH ALL OF MY  
20           OBJECTIONS, AND ALL OF OUR EXPLANATIONS FOR THINGS, AND  
21           STATEMENTS ABOUT THINGS. THEY ONLY GET THE SUBMISSION FROM THE  
22           PROBATION OFFICE, WHICH IS THE PRESENTENCE REPORT, THE  
23           ADDENDUM, OR ANY AMENDED PRESENTENCE REPORT BASED ON THE  
24           COURT'S RULING ON THE OBJECTIONS. SO WHEN THEY JUST SAY THAT  
25           OUR OBJECTIONS ARE NOTED, THAT DOESN'T PROVIDE SUFFICIENT

1 CLARIFICATION TO THE BUREAU OF PRISONS, WHICH IF -- THEY RELY  
2 ON THE PRESENTENCE REPORT SOLELY IN DETERMINING PLACEMENT, AND  
3 PROGRAMMING, AND SECURITY, AND HOUSING DESIGNATIONS, ALL OF  
4 THAT, SO I FRANKLY DON'T KNOW WHAT IT MEANS FOR THAT PROCESS  
5 WHEN THE PROBATION OFFICER JUST SAYS THAT OUR OBJECTIONS ARE  
6 NOTED, AND THAT IS OF CONCERN TO ME.

7 AS IS THE INCLUSION OF MATERIALS ALLEGING THAT THE  
8 STATEMENT OF THE AUSA ALLEGING THAT MR. MCLEOD WAS SEXUALLY  
9 HARASSING AT THE MCC, GIVEN THAT THERE WERE DISCIPLINARY  
10 RECORDS PRODUCED FROM MCC SHOWING THAT NO DISCIPLINARY ACTION  
11 OCCURRED, ALONG WITH THE MCC AND BOP'S POLICY AND REGULATIONS  
12 REGARDING THE PRISON RAPE ELIMINATION ACT OR PRIA, P-R-I-A,  
13 IT'S CONCERNING THAT THAT'S IN THERE BECAUSE AFTER THE FACT MR.  
14 MCLEOD'S SECURITY DESIGNATION, HIS HOUSING, HIS PROGRAMMING  
15 STATUS, ALL OF THAT.

16 NOW, BOP WILL RECEIVE THE RECORDS FROM MCC, WHICH  
17 OBVIOUSLY DOESN'T INCLUDE ANY OF THIS. THERE WAS NO  
18 INVESTIGATION. THERE WAS NO ALLEGATIONS MADE. THERE WAS  
19 NOTHING DONE THROUGH MCC, PERIOD. IT WAS SIMPLY AN INDIVIDUAL  
20 WHO CAME FORWARD OFFERING TO DEBRIEF WITH THE GOVERNMENT IN  
21 EXCHANGE FOR WHAT WE DON'T KNOW OR IF ANYTHING WAS OFFERED OR  
22 IF IT WAS A "COME IN AND TELL US WHAT YOU KNOW, AND WE'LL  
23 DECIDE IF WE GIVE YOU SOMETHING," FINE, BUT THAT'S THE CONTEXT  
24 IN WHICH THESE AROSE. AND BECAUSE THERE WAS NO DOCUMENTARY  
25 BACKUP FOR THAT AT THE MCC, I WOULD REQUEST IT BE STRICKEN FROM

1 THE PSR BECAUSE AGAIN IT AFFECTS MR. MCLEOD'S ABILITY TO  
2 PROGRAM AND BE DESIGNATED IN AN APPROPRIATE FACILITY.

3 THESE ARE THINGS THAT ARE OF MUCH MORE SIGNIFICANCE FOR  
4 SOMEONE WHO IS FACING THE LENGTHY PERIOD OF TIME THAT MR.  
5 MCLEOD IS FACING. THIS IS A MAN WHO IS LOOKING AT A MINIMUM OF  
6 15 YEARS IN PRISON, AND SO HIS ABILITY TO PROGRAM AND BE  
7 PROPERLY DESIGNATED IS MUCH MORE SIGNIFICANT THAN SOMEONE WHO  
8 IS MAYBE LOOKING AT A YEAR.

9 I THINK THOSE ARE THE PRIMARY OBJECTIONS AND THE  
10 REASONS FOR THOSE OBJECTIONS AND THE REASON WHY WE FEEL SO  
11 STRONGLY ABOUT THOSE SPECIFIC PIECES OF INFORMATION BEING  
12 STRICKEN IS THAT THEY ARE REALLY NOT FOUNDED -- AT LEAST WITH  
13 REGARD TO THE ALLEGATIONS REGARDING THE MCC, THEY'RE  
14 CONTRADICTED BY ACTUAL RECORDS FROM THE MCC.

15 I UNDERSTAND WHY THE INFORMATION WAS PROVIDED TO THE  
16 PROBATION OFFICER. THE QUESTION IS WHETHER OR NOT IT REALLY  
17 SHOULD BE INCLUDED IN THE PRESENTENCE REPORT, AND I SUPPOSE  
18 MAYBE THE PROBATION OFFICER IS IN THE BEST POSITION TO CLARIFY  
19 FOR US AND THE COURT WHEN THEY SAY OUR OBJECTIONS ARE NOTED,  
20 WHAT THAT LOOKS LIKE IN TERMS OF --

21 THE COURT: WHEN WE GET TO PROBATION, I'M SURE SHE'LL  
22 SET THAT OUT.

23 MS. MORGAN: ABSOLUTELY. OUR PRIMARY CONCERNS ARE THE  
24 INCLUSION OF THE GUN AS PART OF THE OFFENSE CONDUCT BECAUSE  
25 THAT WILL CATEGORICALLY PROHIBIT HIM FROM MANY KINDS OF

1 PROGRAMMING. THE BOP HAS VERY STRICT RULES ABOUT THIS, AND SO  
2 WE ASK THAT THAT INFORMATION BE STRICKEN FROM THE OFFENSE  
3 CONDUCT SO THAT MR. MCLEOD CAN PROGRAM EFFECTIVELY. I THINK  
4 THAT'S SOMETHING THAT EVERYBODY WOULD WANT FOR HIM IS TO BE  
5 ABLE TO PARTICIPATE IN REHABILITATIVE PROGRAMS WHILE AT THE  
6 MCC, AND THE STRIKING OF ANY ALLEGATIONS OF SEXUAL MISCONDUCT  
7 AT THE MCC BECAUSE THOSE ARE THINGS THAT ARE GOING TO DIRECTLY  
8 IMPACT HIS DESIGNATION AND HIS PROGRAMMING ABILITIES.

9 WE STILL STAND BY ALL THE REST OF OUR OBJECTIONS.

10 THE COURT: I UNDERSTAND.

11 MS. MORGAN: BUT THOSE ARE OUR PRIMARY CONCERNS. WITH  
12 THAT, I WILL SUBMIT ON THAT AS FAR AS THE OBJECTIONS GO.

13 THE COURT: PLEASE CONTINUE.

14 MS. MORGAN: I THINK THAT COVERS ALL OF THE OBJECTIONS  
15 WE HAVE. OBVIOUSLY, WE'VE PUT FORTH OUR LEGAL OBJECTIONS TO  
16 THE GUIDELINES ENHANCEMENTS. I UNDERSTAND THE COURT'S  
17 STATEMENT THAT THE JURY CLEARLY CREDITED THE TESTIMONY OF  
18 JOHNATHAN, AND THAT'S WHY THE SEXUAL CONDUCT ENHANCEMENT SHOULD  
19 APPLY. I HAVE SOME CONCERN ABOUT THAT BECAUSE THE JURY WAS  
20 NEVER ASKED THE QUESTION OF WHETHER THEY BELIEVED THOSE  
21 INCIDENTS TOOK PLACE.

22 THE QUESTION THEY WERE ASKED TO ANSWER WAS WHETHER OR  
23 NOT THEY BELIEVED THAT MR. MCLEOD TRAVELED WITH THE INTENT TO  
24 HAVE SEXUAL CONTACT WITH THIS MINOR, AND WHETHER THE MINOR --  
25 HE INDUCED THE MINOR TO TRAVEL WITH THE INTENT OF HAVING SEXUAL

1 CONTACT. HIS INTENT IS SEPARATE AND APART WHOLLY FROM THE  
2 ALLEGATIONS OF PHYSICAL TOUCHING. WHILE ONE COULD SAY THAT THE  
3 JURY CREDITED JOHNATHAN'S TESTIMONY, CERTAINLY MR. MCLEOD WAS  
4 CONVICTED, SO THERE WAS SOMETHING THERE THAT THEY BELIEVED, BUT  
5 WE DON'T KNOW EXACTLY WHAT, AND THEY WERE NOT ASKED TO  
6 SPECIFICALLY FIND OR NOT FIND ANYTHING ABOUT THOSE ALLEGATIONS,  
7 AND SO -- MR. MCLEOD DENIES THEM. I THINK THAT -- OBVIOUSLY,  
8 THE COURT'S HEARD THE TRIAL. WE RAISED SUBSTANTIAL QUESTIONS  
9 ABOUT WHETHER OR NOT THESE THINGS COULD HAVE ACTUALLY HAPPENED  
10 IN THE WAY THAT WERE TESTIFIED TO.

11 THIS IS NOT, OBVIOUSLY, THE PLACE TO RELITIGATE FACTS,  
12 BUT I DON'T BELIEVE THAT THERE WAS SUFFICIENT RELIABLE EVIDENCE  
13 TO WARRANT THAT PARTICULAR GUIDELINE ENHANCEMENT, AND I DO  
14 THINK THAT IT'S IMPROPER TO SAY THAT THE JURY CREDITED HIS  
15 TESTIMONY AND, THUS, THAT DECISION ONLY INSOFAR AS THE JURY  
16 WASN'T ASKED THAT QUESTION. WE DON'T KNOW WHAT PARTS OF  
17 JOHNATHAN'S TESTIMONY THEY BELIEVED OR NOT BELIEVED. WE  
18 INSTRUCT THE JURY THAT THEY CAN BELIEVE, SOME OF IT, ALL OF IT,  
19 NONE OF IT, AND WE DON'T KNOW, AND NOR WILL WE EVER KNOW,  
20 EXACTLY WHAT THEY BELIEVED OR WHY.

21 AS TO THE UNDUE INFLUENCE, I UNDERSTAND THERE'S A  
22 REBUTTABLE PRESUMPTION IN A CASE WHERE THERE'S A 10-YEAR AGE  
23 DIFFERENCE; HOWEVER, WHAT WE KNOW IS THAT THESE TWO INDIVIDUALS  
24 WERE NEVER FACE-TO-FACE BEFORE JUNE 10TH. THEIR ONLY  
25 RELATIONSHIP WAS DURING THIS GAME PLAY. THIS WAS NOT A CASE

1 WHERE THIS WAS AN ADULT WHO WAS PROVIDING ANYTHING FOR HIM,  
2 WHETHER -- IN SOME OF THE OTHER CASES YOU SEE THEY WERE COACHES  
3 OR TEACHERS OR FRIENDS OR TAKING PEOPLE OUT TO DINNER, DOING  
4 SOMETHING TO FOSTER THAT RELATIONSHIP. THIS WAS AN ONLINE  
5 GAMING RELATIONSHIP THAT LASTED A LITTLE MORE THAN A MONTH  
6 BEFORE MR. MCLEOD'S ARREST IN THIS CASE. HE -- MR. MCLEOD IN  
7 FACT HAD NO CONTACT FROM MAY 27TH TO JUNE 7TH, SO THE UNDUE  
8 INFLUENCE ONLY RELATES TO THE TRAVEL COUNTS.

9 THE UNDUE INFLUENCE ENHANCEMENT ISN'T -- IS SEPARATE  
10 AND APART FROM THE PRODUCTION OF CHILD PORNOGRAPHY COUNTS.  
11 OBVIOUSLY THE RELATIONSHIP, FOR LACK OF A BETTER WAY TO PUT IT,  
12 CARRIES OVER, BUT WHEN WE'RE TALKING ABOUT UNDUE INFLUENCE, I  
13 THINK IT IS IMPORTANT, AS THE COURT KNOWS FROM THE TRIAL, THAT  
14 THERE WAS NO CONTACT BETWEEN THESE TWO INDIVIDUALS FROM MAY  
15 27TH TO JUNE 7TH, AND IT WASN'T UNTIL JOHNATHAN, WHO REGAINED  
16 POSSESSION OF HIS PHONE, EMAILED, AND REINITIATED THE CONTACT  
17 WITH MR. MCLEOD THAT THINGS WERE SET IN MOTION FOR THE TRAVEL,  
18 AND SO THAT'S WHY I THINK WE HAVE REBUTTED THAT PRESUMPTION OF  
19 UNDUE INFLUENCE OF MR. MCLEOD, ESPECIALLY IN THE CASE WHERE THE  
20 MINOR ACTUALLY REACHES OUT BACK TO THE ADULT TO REINITIATE  
21 CONTACT PRIOR TO THE TRAVEL.

22 THE COURT SAW, AND WITHOUT GETTING INTO THE FACTS --  
23 OBVIOUSLY, THE COURT WAS HERE AND SAW ALL OF THE TESTIMONY, BUT  
24 THERE WERE SUFFICIENT AMOUNTS OF EMAIL MESSAGES SHOWING THE  
25 MINOR WAS ENCOURAGING MR. MCLEOD TO COME VISIT HIM, THAT THIS

1 WAS NOT MR. MCLEOD URGING HIM TO "LET ME COME VISIT YOU." IT  
2 WAS TWO WAYS.

3 WHAT WE'RE TALKING ABOUT IS NOT AT ALL -- I'M NOT AT  
4 ALL TRYING TO BLAME JOHNATHAN. THAT'S NOT WHAT I'M TRYING TO  
5 SAY HERE AT ALL, BUT THE QUESTION IS WHETHER OR NOT MR. MCLEOD  
6 HAD SOME KIND OF UNDUE INFLUENCE OVER THIS MINOR THAT MADE HIM  
7 DO THESE THINGS, AND I THINK THAT THE MINOR'S BEHAVIOR IN THAT  
8 REGARD IS RELEVANT AND IMPORTANT TO LOOK AT WHEN WE'RE  
9 DETERMINING WHETHER OR NOT THE ADULT HAD SOME KIND OF UNDUE  
10 INFLUENCE OR UNIQUE POWER OVER HIM.

11 AND I THINK IN THIS CASE, GIVEN THAT IT WAS JOHNATHAN  
12 REINITIATING CONTACT, JOHNATHAN HAD PREVIOUSLY SUGGESTED TO MR.  
13 MCLEOD THAT MR. MCLEOD COME VISIT HIM, THAT HE DO SO ON A  
14 SPECIFIC TIME FRAME, AND THINGS LIKE THAT, THAT UNDERCUTS THIS  
15 NOTION THAT JUST BECAUSE OF THE AGE DIFFERENCE MR. MCLEOD HAD  
16 SOME UNDUE INFLUENCE OVER HIM, AND SO WE DO MAINTAIN OUR  
17 OBJECTION TO THAT.

18 AS FAR AS THE -- THAT BRINGS ME TO THE LAST THING, AS  
19 FAR AS THE COURT'S RULINGS ON THE CONDITIONS OF SUPERVISED  
20 RELEASE, I THINK THE COURT'S AMENDMENTS TO CONDITIONS 7, 8 AND  
21 9 SATISFY OUR OBJECTIONS.

22 THE COURT: OKAY.

23 MS. MORGAN: WE STAND BY OUR OBJECTIONS TO THE OTHER  
24 CONDITIONS; HOWEVER, I'LL SUBMIT ON MY BRIEFING ON THOSE, AND I  
25 DO THINK THAT THE COURT'S AMENDMENT TO 7, 8 AND 9 SUFFICIENTLY

1 RESOLVE OUR CONCERNS.

2 AND WITH THAT, I THINK I'VE COVERED EVERYTHING I WANT  
3 TO SAY ABOUT THE OBJECTIONS.

4 THE COURT: WELL, CONTINUE, IF THERE'S MORE THAT YOU  
5 WISH TO SAY ABOUT ANYTHING ELSE WITH REGARD TO SENTENCING.  
6 YOU'RE GOING TO GET ONE OPPORTUNITY TO ADDRESS EVERYTHING. IF  
7 THAT CONCLUDES THE OBJECTIONS, YOU MAY PROCEED.

8 MS. MORGAN: PERFECT. THEN THAT BRINGS ME TO WHAT IS  
9 A SUFFICIENT SENTENCE, RESOLVING ALL THESE OBJECTIONS, AND  
10 LOOKING AT WHAT SENTENCE IS SUFFICIENT WITHOUT BEING GREATER  
11 THAN NECESSARY TO SERVE THE PURPOSES OF SENTENCING, AND WHAT  
12 THIS CASE IS -- THIS WAS A DIFFICULT CASE FOR EVERYONE  
13 INVOLVED, AND IT'S NOT LOST ON ANYONE THAT THERE WAS DAMAGE  
14 CAUSED ON ALL SIDES. IT'S NOT LOST ON MR. MCLEOD, AND IT  
15 CERTAINLY ISN'T LOST ON ANYBODY THAT'S SITTING IN THIS ROOM THE  
16 DIFFICULTY OF THIS CASE AND WHAT HAPPENED, BUT THE QUESTION  
17 HERE IS HOW MUCH TIME IS ENOUGH TIME TO MEET ALL THE PURPOSES  
18 OF SENTENCING, AND WE ARE REQUESTING A SENTENCE OF 15 YEARS,  
19 WHICH IS A VERY SIGNIFICANT SENTENCE IN ANY WORLD.

20 MR. MCLEOD WAS 35 YEARS OLD AT THE TIME THIS OFFENSE  
21 WAS COMMITTED. 15 YEARS IS JUST UNDER HALF OF HIS LIFE AND  
22 MORE THAN HALF OF HIS ADULT LIFE. IT PUTS HIM LEAVING PRISON  
23 IN HIS LATE 40'S.

24 MR. MCLEOD IS A MAN WHO BY ALL ACCOUNTS HAD ONE OF THE  
25 MOST DIFFICULT AND HORRIBLE UPBRINGINGS THAT ONE COULD IMAGINE.

1 HIS MOTHER WAS -- HAD COGNITIVE IMPAIRMENTS, WAS PHYSICALLY AND  
2 EMOTIONALLY ABUSIVE. HIS BIOLOGICAL FATHER WAS SEXUALLY  
3 ABUSIVE. HE WAS OFTEN NEGLECTED AND NOT CARED FOR. THERE WAS  
4 CPS INVOLVEMENT WHEN HE WAS A TODDLER. HIS FATHER WAS SEXUALLY  
5 ABUSING HIM FOR YEARS, AND IT WASN'T REALLY -- AND MR. MCLEOD  
6 WASN'T BELIEVED OR LISTENED TO ABOUT ANY OF THAT UNTIL HIS  
7 MOTHER AND FATHER DIVORCED BECAUSE OF HIS FATHER'S INFIDELITY  
8 AND THEY WERE GOING THROUGH THE DIVORCE PROCESS, AND IT WAS  
9 ONLY AT THAT TIME THAT HIS MOTHER DECIDED THAT IT WOULD BE  
10 APPROPRIATE TO COME FORWARD TO AUTHORITIES.

11 PRIOR TO THAT, MR. MCLEOD HAD BOUNCED AROUND WITH CPS  
12 INVOLVEMENT AND LIVED WITH HIS MATERNAL GRANDMOTHER, AND HIS  
13 BIOLOGICAL FATHER I THINK IS STILL SERVING A 40-YEAR PRISON  
14 SENTENCE THAT HE RECEIVED FOR MOLESTING MR. MCLEOD, MR.  
15 MCLEOD'S SISTER AND A NEIGHBOR CHILD WHEN THEY WERE VERY YOUNG,  
16 YOU KNOW, 5, 6, 7 YEARS OLD.

17 MR. MCLEOD'S MOTHER WAS HORRIBLY PHYSICALLY ABUSIVE TO  
18 HIM. MR. MCLEOD, BEFORE HE WAS EVEN A TEENAGER, STRUGGLED WITH  
19 SUICIDAL IDEATION, AND ANGER OUTBURSTS, AND STRUGGLED IN  
20 SCHOOL. HIS GRANDMOTHER, WHO CARED FOR HIM A GOOD PORTION OF  
21 TIME, WAS UNABLE TO CONTROL HIM, I THINK PRIMARILY BECAUSE OF  
22 HER AGE AND BECAUSE SHE JUST WAS ILL-EQUIPPED TO RAISE SOMEONE  
23 WHO HAD BEEN GOING THROUGH ALL THE THINGS THAT MR. MCLEOD HAD  
24 BEEN GOING THROUGH, AND THAT'S WHAT RESULTED HIM BEING PLACED  
25 IN A GROUP HOME SETTING.

1 HE WAS PLACED IN A GROUP HOME WHEN HE WAS 9, AND HE  
2 STAYED IN GROUP HOMES AND RESIDED IN GROUP HOMES SURROUNDED BY  
3 OTHER KIDS WHOSE PARENTS HAD ABUSED THEM, WHOSE PARENTS COULD  
4 NOT CARE FOR THEM, WHO COULD NOT TRANSITION BACK. SOME OF  
5 THOSE KIDS SPENT THEIR TIME IN THE GROUP HOME, THE FAMILIES  
6 WORKED IT OUT, AND THEY WERE ABLE TO TRANSITION BACK, BUT NOT  
7 MR. MCLEOD.

8 MR. MCLEOD WAS LEFT THERE LANGUISHING AND GROWING UP  
9 AND NOT HAVING ANYONE, AND THEN HE STARTED TO AGE. HE  
10 EVENTUALLY GOT TO THE POINT WHERE HE WAS AGING OUT OF THE  
11 PROGRAM THAT HE WAS IN, AND THERE WAS A FAMILY COURT HEARING  
12 TRYING TO FIGURE OUT WHAT TO DO WITH THIS TEENAGE BOY. THAT  
13 MUST HAVE BEEN SUCH A TRAUMA -- IT WAS A VERY TRAUMATIZING  
14 EXPERIENCE FOR MR. MCLEOD. "YOU CAN'T GO HOME, BUT YOU CAN'T  
15 STAY HERE, AND THERE IS NO ONE ELSE FOR YOU." THAT WAS WHAT  
16 WAS HAPPENING IN THE FAMILY COURT, AND THE FAMILY COURT JUDGE,  
17 WHO WAS DOING THE VERY BEST HE COULD WITH THE SITUATION, WAS  
18 LIKE, "WELL, I CAN'T FORCE THE PROGRAM TO KEEP HIM BECAUSE HE'S  
19 TOO OLD, BUT CERTAINLY EVERYBODY AGREES HE CAN'T GO HOME  
20 BECAUSE THAT'S UNSAFE AND UNTENABLE, WHAT DO WE DO WITH HIM?"

21 MR. DICKERSON, WHO IS PRESENT IN COURT TODAY, AND IS  
22 THE MAN THAT MR. MCLEOD REFERS TO AS HIS FATHER, HAD BEEN THE  
23 DIRECTOR OF THE WILDERNESS PROGRAM, HAD BEEN A COUNSELOR THERE,  
24 HAD WORKED WITH MR. MCLEOD ESSENTIALLY AS A TEENAGER. HE WAS  
25 ACTUALLY NOT WORKING WITH HIM ANYMORE BECAUSE HE WAS IN A

1 DIFFERENT PROGRAM, BUT WAS CALLED TO TESTIFY AT HIS HEARING AND  
2 THE FAMILY COURT JUDGE SAID TO MR. DICKERSON, "CAN YOU TAKE HIM  
3 HOME FOR THE WEEKEND UNTIL WE CAN FIGURE OUT WHAT TO DO?"  
4 WHICH IS KIND OF INTERESTING -- MUST HAVE BEEN KIND OF AN  
5 INTERESTING DAY IN FAMILY COURT FOR A JUDGE TO REACH THAT  
6 POINT, BUT I THINK IT WAS JUST A LOSS OF WHAT TO DO. MR.  
7 DICKERSON SAID, "OKAY, I'LL TAKE HIM HOME FOR THE WEEKEND.  
8 WE'LL SEE HOW THIS WORKS OUT."

9 AT THE TIME MR. DICKERSON WAS LIVING WITH HIS ELDERLY  
10 MOTHER. MR. DICKERSON IS AN ONLY CHILD, FATHER HAD BEEN GONE  
11 FOR A NUMBER OF YEARS, AND HE AND HIS MOTHER RESIDED TOGETHER,  
12 AND TONY CAME HOME WITH THEM. THE SITUATION WORKED OUT AND MR.  
13 DICKERSON SAID, "YOU CAN MAKE HIM A PERMANENT PLACEMENT," AND  
14 MR. DICKERSON BECAME HIS FOSTER FATHER.

15 THEY NEVER FINALIZED THE ADOPTION BECAUSE OF CERTAIN --  
16 THERE WERE CERTAIN BENEFITS THAT MR. MCLEOD COULD RECEIVE BY  
17 BEING MAINTAINED AS A FOSTER CHILD, COLLEGE EDUCATION, TUITION,  
18 THINGS LIKE THAT, THAT WOULD NOT HAVE BEEN AVAILABLE TO HIM IF  
19 MR. DICKERSON HAD ADOPTED HIM.

20 MR. DICKERSON AND HIS MOTHER DID THEIR VERY BEST TO  
21 PROVIDE A NORMAL UPBRINGING AT THAT POINT. AT THAT POINT MR.  
22 MCLEOD WAS 15. HE HAD ALREADY HAD AS MUCH DAMAGE AS AN -- IN  
23 HIS EARLY CHILDHOOD AS ONE CAN HAVE. IT BEARS ON THIS CASE I  
24 THINK IN TERMS OF HOW THINGS CAME ABOUT. I UNDERSTAND THAT  
25 THIS IS A VERY SERIOUS CASE, AND I UNDERSTAND THAT THERE WERE

1 DIFFERENT THINGS, BUT MR. MCLEOD'S WORLD VIEW, HIS TEENAGE  
2 UPBRINGING, HIS EXPERIENCE AS A TEEN WAS THAT OF BEING  
3 SURROUNDED BY PEOPLE WHOSE PARENTS WERE ABUSING THEM IN SUCH A  
4 WAY THEY WERE REMOVED FROM THEIR HOMES.

5 THAT WAS HIS PEER GROUP. THAT'S WHO HE WAS SURROUNDED  
6 BY. AND WHAT HE LEARNED FROM PEOPLE, AND WHAT HE KNEW FROM HIS  
7 OWN EXPERIENCE, IS THAT THEY MINIMIZED THE ACTUAL ABUSE THAT  
8 WAS GOING ON IN THEIR HOME. NO ONE SAID THINGS WERE AS BAD AS  
9 THEY WERE. EVERYONE MINIMIZED, WHICH IS VERY DIFFERENT THAN  
10 THE TEENAGE EXPERIENCE THAT MOST OF US HAVE.

11 THE TEENAGE EXPERIENCE THAT MOST OF US HAVE IS WE ALL  
12 COMPLAIN ABOUT OUR PARENTS AND HOW MEAN THEY ARE AS TEENAGERS.  
13 THEY SET CURFEWS. THEY WON'T LET US DRIVE CARS. THEY WON'T  
14 LET US COME AND GO AS WE PLEASE, AND THAT MAKES THEM HORRIBLE  
15 PEOPLE. I THINK THAT'S THE EXPERIENCE THAT MOST TEENAGERS  
16 HAVE, TALKING TO THEIR FRIENDS ABOUT HOW MEAN THEIR PARENTS ARE  
17 BECAUSE THEY WON'T JUST GIVE THEM A BLANK CHECK AND THE CAR  
18 KEYS AND SAY, "COME HOME WHEN YOU FEEL LIKE IT." BUT THAT WAS  
19 NOT MR. MCLEOD'S EXPERIENCE. MR. MCLEOD'S EXPERIENCE WAS  
20 HEARING TEENAGERS AND YOUNG PEOPLE TALK ABOUT HOW HORRIBLY THEY  
21 WERE ABUSED.

22 AS ADULTS WE ALL LOOK BACK AND SAY, "I CAN'T BELIEVE  
23 THAT I COMPLAINED ABOUT HOW MEAN MY MOM WAS WHEN SHE WOULDN'T  
24 GIVE ME A BLANK CHECK, AND THE CAR KEYS OR SET CURFEW OR SHE  
25 SET RULES AND LIMITS ON ME, I THOUGHT SHE WAS SO MEAN," BUT AS

1       AN ADULT YOU LOOK BACK AT THAT AND YOU SAY, "SHE WAS JUST BEING  
2       A PARENT. MY DAD WAS JUST BEING A DAD. HE WAS SETTING THE  
3       RULES AND THE BOUNDARIES AND THE LIMITS THAT I NEEDED SET FOR  
4       ME BECAUSE I'M A TEENAGER, AND I SHOULDN'T BE MAKING THESE  
5       DECISIONS FOR MYSELF BECAUSE I'M NOT EQUIPPED TO DO SO."

6               MR. MCLEOD DIDN'T HAVE THAT. HE DIDN'T HAVE THAT  
7       LOOKING BACK ON WHEN YOU THOUGHT YOUR PARENTS WERE HORRIBLE AS  
8       A YOUNG PERSON AND REALIZING AS AN ADULT THEY WEREN'T SO BAD.  
9       THEY WERE JUST PARENTS BEING PARENTS. MR. MCLEOD AND HIS PEER  
10      GROUP WHEN THEY LOOK BACK ON THEIR CHILDHOOD GO, "NO, THAT WAS  
11      -- IT WAS STILL ABUSIVE. IT WAS ABUSIVE, AND IT WAS AWFUL, AND  
12      WE WERE MINIMIZING THAT DESCRIPTION," AND THAT'S THE MAN WHO --  
13      THAT'S HOW MR. MCLEOD VIEWS -- THAT'S THE LENS WITH WHICH MR.  
14      MCLEOD VIEWS THE WORLD IS THAT WHEN PEOPLE, LIKE CHILDREN, WHEN  
15      ANYONE DESCRIBES BEING ABUSED, THEY ARE MINIMIZING IT. IT MUST  
16      BE WORSE THAN THEY'RE ACTUALLY SAYING.

17              I SAY THAT NOT IN TERMS OF WHAT WAS ACTUALLY GOING ON  
18      IN THE HOME OF JOHNATHAN AGUIRRE. IT'S NOT RELEVANT  
19      PARTICULARLY, AND I DON'T THINK THAT ANYONE NOW, LOOKING BACK,  
20      HAVING TRIED THE CASE, HAVING LOOKED THROUGH EVERYTHING, LOOKED  
21      AT EVERYTHING OVER THE LAST YEAR, WOULD SAY THAT IN ANY WAY  
22      THAT MR. AGUIRRE WAS BEING ABUSED IN HIS HOME IN JUNE OF 2013,  
23      BUT THAT WAS WHAT HE WAS SAYING, THAT WAS WHAT HE WAS TELLING  
24      MR. MCLEOD. AND MR. MCLEOD'S VIEW WAS NOT OUR VIEW OF "IF A  
25      KID'S SAYING THEY WON'T LET ME DO THIS AND THAT, HE'S PROBABLY

1 JUST EXAGGERATING AND BEING A TEEN," AND THAT'S WHAT CAUSED  
2 HIM TO REACT SO VISCERALLY IN TERMS OF BELIEVING THAT THIS WAS  
3 A PERSON WHO NEEDED RESCUING.

4 THAT'S NOT AN EXCUSE FOR WHAT HE DID. IT'S NOT AN  
5 EXCUSE FOR WHAT HINDSIGHT WOULD SAY WAS AN OVERREACTION, BUT IT  
6 IS IN SOME REGARD UNDERSTANDABLE WHY HE WOULD REACT IN A WAY  
7 THAT SEEMED SO OVER THE TOP TO PEOPLE WHO HAD A NORMAL  
8 EXPERIENCE WITH THEIR PARENTS AS A TEENAGER.

9 MR. MCLEOD IS A MAN WHO BY ALL ACCOUNTS IS PRETTY --  
10 WAS EMOTIONALLY VERY IMMATURE ALL OF HIS LIFE. AT 15 HE WASN'T  
11 15. AT 20 HE WASN'T 20. HIS EMOTIONAL UPBRINGING WAS STUNTED  
12 FROM YEARS IN A GROUP HOME AND BEING ABUSED. THOSE ARE NOT  
13 THINGS THAT CAN GET MADE UP IN THREE YEARS WITH NORMAL FOLK.

14 HE STRUGGLED TO FIND JOBS, TO FIND A CAREER PATH, AND  
15 TO FIND WHO HE WANTED TO BE, BUT HE DID TRY AND WORK AND BE  
16 PRODUCTIVE AND DO THE THINGS THAT HE NEEDED TO DO.

17 HE'S A MAN WHO HAS A CONSIDERABLE NUMBER OF PEOPLE THAT  
18 LOVE HIM AND CONSIDER HIM FAMILY. MR. DICKERSON OBVIOUSLY HE  
19 CONSIDERS HIM HIS FATHER. MR. DICKERSON'S MOTHER, TONY'S  
20 GRANDMOTHER, WAS THE ONLY MOTHER FIGURE HE'S EVER REALLY KNOWN.  
21 HIS PARTNER ERIC OF MORE THAN SEVEN YEARS IS HERE TODAY WITH  
22 HIS MOM, TONY'S IN-LAWS. HE HAS NIECES AND NEPHEWS FROM ERIC'S  
23 BROTHERS AND SISTER. PEOPLE JUST ADORE HIM, WHO KNOW HIM TO BE  
24 A KIND AND GENTLE SOUL, WHO TENDS TO ERR ALWAYS ON THE SIDE OF  
25 HELPING PEOPLE. THAT'S WHO THEY ALL KNOW HIM TO BE. THAT'S

1 WHO HE HAS BEEN.

2 MR. MCLEOD WENT BACK TO SCHOOL. HE WENT TO THE POLICE  
3 ACADEMY BECAUSE HE WANTED TO BE IN A POSITION TO HELP FOLKS.  
4 HE STRUGGLED TO FIND A JOB. HE WAS STRUGGLING IN HIS CAREER,  
5 AND THAT'S KIND OF WHAT LED TO -- YOU HEARD MR. WOLFE TALK  
6 ABOUT THE BREAKDOWN IN THE RELATIONSHIP AND TONY'S ESCAPE INTO  
7 VIDEO GAMES, WHICH I THINK IN SOME REGARDS SHOWS HIS KIND OF  
8 EMOTIONAL MATURITY AT THAT TIME, TOO, INSTEAD OF, YOU KNOW,  
9 KIND OF PULLING UP HIS BOOTSTRAPS AND BEATING THE BUSHES, HE  
10 ESCAPED. HE ESCAPED FROM HIS REALITY, WHICH MANY OTHER PEOPLE  
11 DID.

12 15 YEARS IS A SUFFICIENT SENTENCE TO PUNISH MR. MCLEOD  
13 AND TO ASSURE THE SAFETY OF THE COMMUNITY. I ADDRESSED IN MY  
14 PAPERS THE GUIDELINES IN THIS CASE, AND IN SOME REGARD WHY I  
15 THINK THE GUIDELINES YIELD A SENTENCE THAT IS SO MUCH GREATER  
16 THAN WHAT'S TRULY NECESSARY, ESPECIALLY -- INTERESTINGLY, THE  
17 GUIDELINES THAT ARE DRIVING THIS CASE ARE THE PRODUCTION OF  
18 CHILD PORNOGRAPHY GUIDELINES. THOSE ARE THE GUIDELINES THAT  
19 ARE HIGHER UNDER ANY CALCULATION OF THE GUIDELINES, WHETHER OR  
20 NOT THE COURT APPLIES THE ENHANCEMENTS SUGGESTED BY PROBATION  
21 OR THE GOVERNMENT OR WHETHER THEY DON'T. THE CHILD PORNOGRAPHY  
22 GUIDELINES ARE WHAT ARE DRIVING THE CASE. WHILE I DON'T -- AND  
23 THOSE ARE THE COUNTS TO WHERE THE 15-YEAR MINIMUM MANDATORY  
24 APPLIES.

25 WHAT WE KNOW AND WHY CHILD PORNOGRAPHY PRODUCTION

1       CASES, AND POSSESSION CASES, AND DISTRIBUTION CASES ARE TREATED  
2       SO HARSHLY IS BECAUSE OF THE FEAR OF ONGOING HARM. WE TALK A  
3       LOT ABOUT THE RE-VICTIMIZATION OF PEOPLE BECAUSE THE IMAGES ARE  
4       POSTED ONLINE AND THEY CAN NEVER GO AWAY. THAT DIDN'T HAPPEN  
5       HERE. IN THE SPECTRUM OF CHILD PORNOGRAPHY PRODUCTION CASES,  
6       THIS ONE IS ON THE MORE BENIGN SIDE OF THE SPECTRUM, AND I  
7       THINK THE COURT KNOWS THAT FROM OTHER CASES THEY'VE TRIED AND  
8       OTHER CASES THEY'VE SEEN.

9               I'M NOT SAYING THIS IS NOT A SERIOUS OFFENSE, BUT WE'RE  
10       TALKING ABOUT A PRODUCTION CASE IN WHICH THE SAME MINIMUM  
11       MANDATORY APPLIES TO MR. MCLEOD WHOSE CONVICTION ON PRODUCTION  
12       RESULTED FROM CONDUCT FROM 3,000 MILES AWAY HE TRADED IMAGES  
13       WITH A 14-YEAR OLD WHO TOOK PHOTOGRAPHS AND MADE VIDEOS  
14       HIMSELF. THAT IS HOW THIS PORNOGRAPHY WAS PRODUCED.

15              I'M NOT AT ALL SAYING THAT THAT'S NOT SERIOUS, BUT IT  
16       IS UNDER THE GUIDELINES AND UNDER THE -- UNDER THESE GUIDELINES  
17       NO DIFFERENT, AND UNDER THE MINIMUM MANDATORY, THE SAME MINIMUM  
18       MANDATORY GUIDELINES APPLY TO THAT AS IF HE BEEN IN THE SAME  
19       ROOM WITH JOHNATHAN AND FORCED HIM TO HAVE SEX WHILE FILMING  
20       IT, THE SAME GUIDELINES AND THE SAME 15-YEAR MINIMUM MANDATORY  
21       WOULD APPLY.

22              SO WHEN WE'RE TALKING ABOUT THE NATURE AND  
23       CIRCUMSTANCES OF THIS OFFENSE, THIS IS ON THE MORE -- LESS  
24       SIGNIFICANT SIDE OF A CHILD PORNOGRAPHY OFFENSE. THESE IMAGES  
25       BY ALL ACCOUNTS WERE NEVER DISTRIBUTED, WERE NEVER INTENDED FOR

1           DISTRIBUTION.   THE IMAGES WERE ALL RECOVERED FROM JOHNATHAN'S  
2           PHONE.   MR. MCLEOD -- THEY SEARCHED EVERY DEVICE IN HIS HOME,  
3           EVERY COMPUTER HE HAD ACCESS TO, THERE WAS NO INDICATION THAT  
4           ANY OF THESE IMAGES WERE EVER PUBLISHED, SHARED, AND I THINK  
5           THAT DOES MINIMIZE THE ONGOING HARM.

6                   OBVIOUSLY, THERE IS -- I THINK THE COURT BROUGHT THIS  
7           UP IN TERMS OF CALCULATING THE GUIDELINES INITIALLY -- SOME  
8           LEVEL OF HARM JUST IN THE CREATION OF THE IMAGES, PERIOD, BUT  
9           WE ARE TALKING ABOUT A TEENAGER, NOT A FOUR-YEAR-OLD.   WE ARE  
10          TALKING ABOUT SOMEONE WHO IS 14, WHO IS CAPABLE OF MAKING  
11          CERTAIN LEVELS OF DECISIONS THEMSELVES, AND I'M NOT -- AND WHEN  
12          I SAY THAT I'M NOT SAYING THAT TO BLAME JOHNATHAN IN ANY  
13          CAPACITY, BUT HE IS AND WAS A YOUNG MAN WHO MADE SOME CHOICES  
14          THERE.

15                   WHETHER HE MADE CHOICES BECAUSE HE WAS INFLUENCED BY  
16          SOMEONE ELSE OR ENCOURAGED BY SOMEONE ELSE IS A DIFFERENT  
17          DISCUSSION, BUT THAT IS A VERY DIFFERENT SITUATION THAN A CHILD  
18          WHO IS SO YOUNG THAT THEY DON'T EVEN UNDERSTAND THE SEXUAL  
19          NATURE OF THINGS, AND THAT'S WHY I THINK THESE PRODUCTION  
20          COUNTS ARE SUCH THAT THE MINIMUM MANDATORY IS SUFFICIENT  
21          BECAUSE THIS IS NOT A VICTIM WHO HAD NO IDEA OF THE SEXUAL  
22          NATURE OF THIS, COULD NOT MAKE ANY DETERMINATION, AND WAS  
23          ENTIRELY FORCED.

24                   THIS WAS SOMEONE WHO WAS 3,000 FILES AWAY FROM THE  
25          PERSON WHO WAS ENCOURAGING, WITHOUT CONCEDING -- OBVIOUSLY, I'M

1 NOT CONCEDING ANYTHING, BUT UNDER THE FACTS PRESENTED OR UNDER  
2 THE THEORY OR THE CONVICTION WAS 3,000 MILES AWAY FROM THE  
3 PERSON ENCOURAGING THE PRODUCTION, AND I THINK THAT COUNSELS  
4 TOWARD A MUCH MORE -- TOWARDS A MINIMUM MANDATORY.

5 I THINK THAT'S ESPECIALLY TRUE WHEN WE LOOK AT THE FACT  
6 THAT RIGHTLY OR WRONGLY SEXTING IS A TEENAGE PHENOMENON RIGHT  
7 NOW. TEENAGERS SEXTING WITH ONE ANOTHER, PERIOD, IS SOMETHING  
8 THAT IS HAPPENING DAILY. IT IS KIND OF NOW TALKED ABOUT IN  
9 HIGH SCHOOLS, AND STUDIES ARE DONE BECAUSE OF THE ACCESSIBILITY  
10 OF SMARTPHONES. THE IDEA OF SEXTING SOMEONE, SENDING SEXUALLY  
11 EXPLICIT PHOTOGRAPHS TO ANOTHER HUMAN BEING, IS NOT SOMETHING  
12 THAT ANY OF US COULD HAVE OR WOULD HAVE OR EVER THOUGHT ABOUT  
13 DOING, BUT WE DIDN'T HAVE INSTAGRAM. WE DIDN'T HAVE SNAPCHAT.  
14 WE DIDN'T HAVE FACEBOOK.

15 WE DIDN'T HAVE A SMARTPHONE THAT WOULD ALLOW ME TO TAKE  
16 A PICTURE OF ANYBODY, AT ANYTIME, IN A SPLIT MOMENT, AND ALLOWS  
17 TEENAGERS TO KIND OF ACT ON THOSE IMPULSES THAT TEENAGERS HAVE,  
18 IN THE WAY THAT TEENAGERS DON'T THINK ABOUT "WHAT'S THIS GOING  
19 TO LOOK LIKE 15 YEARS FROM NOW" OR "AM I GOING TO REALLY HAVE  
20 WANTED THIS ON MY FACEBOOK WHEN I'M IN COLLEGE?"

21 AND WE CITED -- IN MY PAPERS I CITED THAT STUDY IN 2012  
22 SAYING THAT AT LEAST 28 PERCENT OF TEENAGERS, THAT'S ALMOST A  
23 THIRD OF THEM, HAVE ADMITTED TO SENDING PHOTOGRAPHS TO ONE  
24 ANOTHER. THIS IS NOT SOMETHING THAT IS SO UNCOMMON OR SO  
25 UNHEARD OF THAT ONE COULD SAY THIS BEHAVIOR WOULD NEVER HAVE

1           HAPPENED HAD MR. MCLEOD NOT BEEN INVOLVED.  MAYBE, MAYBE NOT,  
2           BUT I DO ALSO THINK THAT THAT MITIGATES THIS HARM, IN TERMS OF  
3           WHEN WE'RE LOOKING AT HARM THAT WAS CAUSED AND WHAT IS  
4           SUFFICIENT TO PUNISH MR. MCLEOD FOR THAT HARM.

5           MR. MCLEOD'S FAMILY IN GRAVE DETAIL SENT LETTERS TO THE  
6           COURT TALKING ABOUT WHAT HE MEANS TO THEM, HOW MUCH THEY LOVE  
7           HIM, HOW MUCH THEY SUPPORT HIM.  THE FACT THAT MULTIPLE TIMES  
8           THEY'VE FLOWN OUT HERE FROM THOUSANDS OF MILES AWAY IN A CASE  
9           WHERE, IN MY YEARS OF DOING THIS, IT'S OFTEN THE CASE WHEN  
10          SOMEONE IS CHARGED WITH SOMETHING LIKE THIS THE FAMILY  
11          DISAPPEARS.  ITS JUST TOO DIFFICULT.  PEOPLE RUN AWAY.  PEOPLE  
12          GET DIVORCED.  BUT THEY'VE MAINTAINED THEIR LOVE FOR HIM  
13          REGARDLESS, AND I THINK THAT SHOWS WHO HE WAS TO THEM -- NOT  
14          ONLY WHO HE IS TO THEM, BUT WHO HE WILL ALWAYS BE TO THEM.

15          DR. CLIPSON, HAVING MET WITH MR. MCLEOD FOR A VERY --  
16          MULTIPLE INTERVIEWS, AND PERFORMED LOTS OF TESTS, FINDS THAT  
17          MR. MCLEOD IS A LOW TO MODERATE RISK TO REOFFEND.  HE IS NOT A  
18          PEDOPHILE.  HE DOES NOT HAVE A SEXUAL INTEREST IN CHILDREN.  
19          AND I KNOW BECAUSE HE'S CONVICTED OF CHILD PORNOGRAPHY AND  
20          TRAVEL FOR A MINOR THAT MAY SEEM AT ODDS, BUT I THINK IT  
21          ACTUALLY JUST COMES FROM THE PSYCHOLOGICAL DEFINITION OF  
22          PEDOPHILIA, WHICH REQUIRES AN INTEREST IN PREPUBESCENT  
23          CHILDREN, AND THAT'S NOT WHAT WE HAVE HERE.  WE HAVE  
24          POST-PUBESCENT INDIVIDUALS.

25                 15 YEARS FOR SOMEONE WHO HAS NEVER BEEN IN PRISON

1        BEFORE IS A VERY, VERY SIGNIFICANT SENTENCE, AND THAT'S GOING  
2        TO BE FOLLOWED BY A TERM OF SUPERVISED RELEASE UP TO AND  
3        INCLUDING THE REST OF MR. MCLEOD'S NATURAL LIFE. SUPERVISED  
4        RELEASE, AS THE COURT IS WELL AWARE, IS NOT SUMMARY PROBATION.  
5        IT'S NOT JUST LIKE CHECK IN ONCE A WEEK OR ONCE A MONTH AND GO  
6        ABOUT YOUR LIFE AND DON'T GET ARRESTED AGAIN. SUPERVISED  
7        RELEASE FOR SOMEONE CONVICTED OF AN OFFENSE LIKE THIS IS A VERY  
8        SIGNIFICANT CURTAILMENT OF THEIR LIBERTY. AND THAT, IN  
9        CONNECTION WITH THE 15-YEAR MINIMUM MANDATORY, IS SUFFICIENT TO  
10       PROTECT THE PUBLIC. WHEN WE LOOK AT A 15-YEAR SENTENCE, PLUS  
11       THIS TERM OF SUPERVISED RELEASE, IT'S NOT AS THOUGH MR. MCLEOD  
12       IS GOING TO WALK OUT OF THE PRISON DOOR AND IT'S GOING TO BE,  
13       "OKAY, WELL, JUST DON'T GET ARRESTED AGAIN AND WE'LL SEE YOU."  
14       HE'S GOING TO BE SUBJECT TO GPS MONITORING, MONITORING WITH ALL  
15       OF THOSE DEVICES. AND LET'S BE FRANK, I'LL PROBABLY BE HERE --  
16       WHEN THAT HAPPENS, SOMEONE WILL BE HERE AND HAVING A HEARING  
17       ABOUT HOW THOSE THINGS HAVE CHANGED AND HOW THE TECHNOLOGY HAS  
18       CHANGED IN BETWEEN NOW AND THEN, BECAUSE IF WE THINK ABOUT  
19       WHERE WE WERE 15 YEARS AGO, 15 YEARS AGO I DIDN'T HAVE A CELL  
20       PHONE, LET ALONE A SMARTPHONE. THERE WAS NO COVERAGE WHERE I  
21       LIVED AT THE TIME. NOBODY HAD CELL PHONES.

22                TODAY WE HAVE NOT JUST A CELL PHONE, WE HAVE WHAT IS IN  
23       FACT A COMPUTER IN OUR HAND, WHERE I BANK, AND THINGS THAT I  
24       COULDN'T EVEN HAVE THOUGHT I WOULD BE DOING ON MY PHONE  
25       15 YEARS AGO, WE DO ON OUR PHONE NOW. SO THE WAY THAT

1           TECHNOLOGY WILL HAVE CHANGED AND IMPROVED, JUST LOOKING AT THE  
2           LAST 10 YEARS HOW GPS MONITORING HAS CHANGED AND IMPROVED, IT  
3           GIVES THE PEOPLE THE ABILITY TO MONITOR SOMEONE WITH GPS  
4           EFFICIENTLY, EFFECTIVELY AND SOMEWHAT MORE -- SURREPTITIOUSLY  
5           IS THE WORD THAT COMES TO MIND, BUT LESS INVASIVELY BECAUSE IT  
6           USED TO BE YOU HAD THIS HUGE BAG YOU HAD TO CARRY AROUND. IT  
7           WAS VERY OBVIOUS WHEN SOMEONE WAS ON GPS MONITORING, AND NOW  
8           WE'RE DOWN TO A LITTLE ANKLET, SO FLASH FORWARD 13 YEARS WE'RE  
9           GOING TO BE ABLE TO DO EVEN MORE.

10                 MR. MCLEOD IS A PERSON WHO DIDN'T BREAK THE LAW. HE  
11           WAS A LAW-ABIDING CITIZEN WHO DOESN'T HAVE A HISTORY OF ANY  
12           KIND OF CONVICTIONS. THERE WERE -- I UNDERSTAND THAT THERE'S  
13           SOME ARREST ISSUES WITH DOMESTIC DISPUTES, BUT NO CHARGES WERE  
14           EVER BROUGHT. MR. WOLFE IS HERE. HE ISN'T A GUY WHO HAD EVER  
15           BEEN IN JAIL BEFORE THIS CASE, AND HE'S NOW BEEN IN CUSTODY  
16           SINCE JUNE OF 2013, UNDERSTANDS NOW THAT HE'S FACING  
17           SUBSTANTIALLY MORE YEARS.

18                 I KNOW THAT THE GOVERNMENT'S POSITION ON THIS CASE, AND  
19           REALLY THEIR REQUEST FOR 33-PLUS YEARS IS BASED ON A NOTION  
20           THAT THEY NEED TO PROTECT THE PUBLIC FROM MR. MCLEOD. 15 YEARS  
21           IS SUFFICIENT TO DO THAT. 15 YEARS MEANS THAT HE'S GOING TO BE  
22           ALMOST 50 WHEN HE COMES OUT OF PRISON. WHAT WE KNOW, WHAT IS  
23           BEYOND DISPUTE, IS THAT RECIDIVISM RATES FOR ANY INDIVIDUAL  
24           DROPS AS THEY AGE. THAT IS WIDELY ACCEPTED WITHIN THE  
25           COMMUNITY. IT IS KIND OF THE NATURE OF EVERY STUDY THAT'S EVER

1           BEEN DONE IS THAT AS PEOPLE AGE THEY COMMIT LESS CRIMES. 47,  
2           WHILE FAR FROM BEING OLD, IS STARTING DOWN THE PATH OF WHEN  
3           PEOPLE ARE LESS LIKELY TO RECIDIVATE.

4           THIS IS A CASE WHERE OBVIOUSLY IT WAS SERIOUS, AND  
5           OBVIOUSLY NO ONE IS DISPUTING THE HARM THAT WAS CAUSED TO  
6           EVERYONE. THE QUESTION IS WHAT IS SUFFICIENT TO PUNISH MR.  
7           MCLEOD AND THEN TO MEET THE OTHER PURPOSES OF SENTENCING, WHICH  
8           ARE REHABILITATION, TREATMENT, EDUCATION, SOME OF WHICH CAN BE  
9           ACCOMPLISHED IN THE BUREAU OF PRISONS, BUT SOME OF WHICH JUST  
10          CAN'T.

11          MR. MCLEOD WILL INEVITABLY BE PLACED IN A SEX OFFENDER  
12          MANAGEMENT PROGRAM OR TREATMENT PROGRAM THAT HE'LL BE ALLOWED  
13          TO COMPLETE WHILE IN THE CUSTODY OF THE BUREAU OF PRISONS, BUT  
14          HIS TRUE REHABILITATION IS NOT GOING TO HAPPEN WITHIN THE  
15          PRISON WALLS BECAUSE REHABILITATION IS GEARED TOWARD LIVING IN  
16          THE OUTSIDE WORLD WITH OTHER PEOPLE, RIGHT? IT'S VERY EASY TO  
17          SAY SOMEONE IS REHABILITATED WHEN THEY CANNOT LEAVE A PRISON.  
18          THE QUESTION IS HOW THEY FUNCTION ON THE OUTSIDE, AND THAT'S  
19          GOING TO CONTINUE WHILE HE'S ON SUPERVISED RELEASE.

20          HE IS GOING TO HAVE TO RETHINK ANY CAREER PATH HE HAD,  
21          AS HE'S NOW GOING TO BE A CONVICTED FELON AND A REGISTERED SEX  
22          OFFENDER, WHICH WILL DRAMATICALLY DECREASE A LOT OF JOB  
23          PROSPECTS. THE COURT KNOWS THAT. THOSE ARE JUST COLLATERAL  
24          CONSEQUENCES OF THE NATURE OF THESE TYPES OF CONVICTIONS.

25          SO HE'S GOING TO HAVE TO FIND A NEW EDUCATIONAL PATH,

1 DO SOME KIND OF JOB TRAINING. HIS OPPORTUNITIES FOR THAT ARE  
2 VERY LIMITED IN THE BOP. THERE ARE COLLEGE PROGRAMS AND THINGS  
3 LIKE THAT. HE WILL TAKE ADVANTAGE OF THOSE TO THE BEST THAT HE  
4 CAN, AND THE BEST THAT HE CAN AFFORD, BECAUSE ANY COLLEGE  
5 CLASSES THAT HE TAKES IN CUSTODY YOU HAVE TO PAY FOR, AND HE  
6 DOESN'T COME FROM A FAMILY OF INCREDIBLE MEANS, BUT HE KNOWS  
7 THAT, AND HE WILL WORK TOWARDS THOSE GOALS AND WORK TOWARDS  
8 COMING OUT OF PRISON IN SUCH A WAY THAT HE CAN REINTEGRATE MOST  
9 SUCCESSFULLY.

10 15 YEARS IS NOT GOING TO RESULT IN AN UNWARRANTED  
11 DISPARITY OF SENTENCINGS IN THIS TYPE OF CASE. I CITED SEVERAL  
12 OTHER CASES IN MY PAPERS IN TERMS OF SIMILARLY-SITUATED FOLKS  
13 AND THE SENTENCES THAT THEY RECEIVED, AND MOST OF THEM RECEIVED  
14 FAR LESS THAN THE 15-YEAR MANDATORY MINIMUM. THE CASES THAT  
15 INVOLVED THAT -- I CITED THREE OTHER CASES THAT THE DEFENDANTS  
16 RECEIVED A SENTENCE OF 210 MONTHS, WHICH IS JUST 30 MONTHS MORE  
17 THAN MR. MCLEOD IS REQUESTING, BUT INVOLVED CONDUCT THAT WAS  
18 SUBSTANTIALLY MORE EGREGIOUS, BY ANY STRETCH OF THE  
19 IMAGINATION. THE KIDNAPPING AND ORAL COPULATION OF A 5-YEAR  
20 OLD BOY. THE IMAGES OF A DEFENDANT MOLESTING HIS 5-YEAR OLD  
21 DAUGHTER, AND IMAGES OF A DEFENDANT MOLESTING HIS 7-YEAR OLD  
22 NIECE, AND THOSE CASES RESULTED IN A SENTENCE OF 210 MONTHS. I  
23 THINK THOSE CASES CERTAINLY ARE A MUCH MORE EGREGIOUS SET OF  
24 FACTS THAN WHAT WE HAVE HERE.

25 I GUESS THE ONE THING I HAVEN'T TOUCHED ON IS THAT I

1 GUESS MAYBE WHAT IS ONE OF THE CONCERNING ELEMENTS OF THIS  
2 CASE, THAT ISN'T LOST ON ANYONE, IS THAT THERE WAS A PERIOD OF  
3 14 HOURS WHERE MR. -- WHERE JOHNATHAN'S PARENTS DID NOT KNOW  
4 WHERE HE WAS, AND THAT'S A TRUE FACT, RIGHT, THAT'S A THING  
5 THAT RESULTED FROM TRIAL, AND THAT IS SOMETHING THAT MR. MCLEOD  
6 NOW UNDERSTANDS WAS INCREDIBLY HARMFUL AND INCREDIBLY DAMAGING  
7 FOR THAT FAMILY, HOW SCARED SHE MUST HAVE BEEN -- HOW SCARED  
8 MS. RAMIREZ MAY HAVE BEEN, AND HOW UPSET, AND HOW DIFFICULT  
9 THAT WAS FOR HER, AND OBVIOUSLY THAT IS PART OF THE CALCULUS IN  
10 WHAT IS SUFFICIENT TO PUNISH MR. MCLEOD.

11 I KNOW IN HER -- I ADDRESSED THIS, FRANKLY, JUST  
12 BECAUSE IT'S FACTUAL, BUT IN MS. RAMIREZ'S VICTIM IMPACT  
13 STATEMENT SHE MENTIONED HAVING SEEN A CAR IN HER NEIGHBORHOOD  
14 THE NIGHT BEFORE JOHNATHAN WENT MISSING AND BELIEVING -- TODAY  
15 SHE BELIEVES THAT THAT CAR WAS MR. MCLEOD. THE FACT OF THE  
16 MATTER IS MR. MCLEOD WASN'T IN SAN DIEGO YET, HADN'T PICKED UP  
17 HIS RENTAL CAR YET. HE WAS STILL IN LOS ANGELES. I UNDERSTAND  
18 WHY IN HINDSIGHT A PERSON MIGHT BEAT THEMSELVES UP BY SAYING,  
19 "WOW, I SAW THIS CAR. I COULD HAVE DONE SOMETHING TO STOP  
20 THAT." THAT'S JUST NOT -- SHE SHOULDN'T PUT THAT BLAME ON  
21 HERSELF TO EVEN THINK THAT BECAUSE THAT DIDN'T HAPPEN.

22 MR. MCLEOD DIDN'T STALK HER HOUSE, DIDN'T KNOW WHERE  
23 SHE WAS. IN FACT, HE HADN'T EVEN PICKED UP THE RENTAL CAR AT  
24 THAT TIME. THERE'S NO EVIDENCE THAT HE WAS EVER IN SAN DIEGO,  
25 SO TO THE EXTENT THAT MS. RAMIREZ IS FAULTING HERSELF IN NOT

1 STOPPING IT, I SUPPOSE I WANT HER TO KNOW THAT'S TRUE, BUT ALSO  
2 MR. MCLEOD WASN'T STALKING THE FAMILY, WASN'T DRIVING BY THEIR  
3 HOUSE, CIRCLING, TO TRY AND PICK UP JOHNATHAN, THAT THAT DIDN'T  
4 HAPPEN. OBVIOUSLY, HE DID MAKE ARRANGEMENTS TO PICK UP  
5 JOHNATHAN FROM HIS MIDDLE SCHOOL. THAT HAPPENED, AND MR.  
6 MCLEOD, REGARDLESS OF WHAT OTHER INTENT, HE DID BELIEVE THAT  
7 JOHNATHAN WAS BEING ABUSED. I THINK THAT WAS CLEAR FROM THE  
8 POST-ARREST STATEMENT. WE KNOW THAT WAS DEFINITELY WHAT  
9 JOHNATHAN WAS TELLING HIM.

10 THE REST OF IT, OBVIOUSLY WE WENT TO TRIAL, AND THERE  
11 WAS A TRIAL ABOUT ANY FURTHER INTENT OR ADDITIONAL INTENT, BUT  
12 IT WAS NEVER CHALLENGED THAT MR. MCLEOD DID BELIEVE THAT  
13 JOHNATHAN WAS SUFFERING AT THE HANDS OF HIS PARENTS, THAT HE  
14 WAS NOT BEING TREATED WELL BECAUSE, IN MR. MCLEOD'S MIND, WHAT  
15 HE WAS TOLD IS BECAUSE JOHNATHAN WAS SAYING HE WAS GAY OR THEY  
16 BELIEVED HE WAS GAY, AND THEY WERE MISTREATING HIM BECAUSE OF  
17 THAT.

18 OBVIOUSLY, NO ONE IS SAYING THAT EXCUSES ANY KIND OF  
19 BEHAVIOR, BUT IT DOES MITIGATE MR. MCLEOD'S STATE OF MIND. HE  
20 DID CALL CPS. HE DID MAKE CALLS TO THE POLICE DEPARTMENT. I  
21 DON'T THINK WE ACTUALLY PUT INTO EVIDENCE THE RECORDED CALL TO  
22 CPS, BUT THERE WAS ONE, AND I THINK THAT THAT'S NOT DISPUTED BY  
23 ANY SIDE.

24 AGAIN, THIS ISN'T TO SAY THAT ANY OF THIS WAS  
25 JOHNATHAN'S FAULT. IT IS TO PUT THE CONTEXT OF ALL OF THE

1 OFFENSE IN -- TO PUT ALL OF THE OFFENSE IN CONTEXT THAT THAT  
2 WAS GOING ON.

3 I KNOW THAT IN PRETRIAL HEARINGS THE COURT MENTIONED  
4 WYLY A LOT, AND WE ALL DID IN TERMS OF SETTING THINGS UP, AND I  
5 DO THINK THAT IN SOME REGARDS LOOKING AT THIS CASE IN  
6 COMPARISON WITH THAT CASE, FOR SENTENCING PURPOSES, MAKES SOME  
7 SENSE, SO THEY WERE IN SOME REGARDS VERY DIFFERENT, AND THOSE  
8 DEFENDANTS WERE VERY DIFFERENT, BUT IN THAT CASE THERE WERE  
9 VERY GRAPHIC IMAGES. THIS PERSON WAS A CAREGIVER FOR THIS  
10 CHILD. THE CHILD WAS 6 YEARS OLD. MS. WYLY RECEIVED A  
11 SENTENCE OF 27 YEARS, WHICH IS ALMOST EIGHT YEARS LESS THAN  
12 WHAT THE GOVERNMENT IS RECOMMENDING IN THIS CASE.

13 HERE, THERE WAS NO FORCE. THERE WAS NO DISTRIBUTION OF  
14 IMAGES. UNDERSTANDABLY, YES, THERE IS SOME -- NOBODY IS  
15 DISPUTING THAT THERE WAS HARM TO THE FAMILY, BUT WE DID HAVE  
16 TEENAGERS INVOLVED IN THIS OFFENSE, TEENAGERS WHO WERE 3,000  
17 MILES AWAY FROM MR. MCLEOD, WHO REGARDLESS OF -- THIS ISN'T TO  
18 SAY IT'S THEIR FAULT OR I'M NOT BLAMING THEM IN ANY CAPACITY,  
19 BUT AT ANY POINT THEY COULD HAVE HUNG UP THEIR IPADS, BUT THEY  
20 DIDN'T. EXACTLY WHY THAT IS, WE DON'T KNOW, BUT THAT IS A VERY  
21 DIFFERENT PERSON -- A 14-YEAR OLD 3,000 MILES AWAY WITH AN  
22 ELECTRONIC DEVICE IS VERY DIFFERENT THAN A 4 OR 5-YEAR OLD IN  
23 THE SAME ROOM WITH SOMEONE, VERY DIFFERENT THAN A CHILD WHO IS  
24 TOO YOUNG TO EVEN UNDERSTAND ANYTHING ABOUT SEXUAL NATURE OR  
25 PRIVACY, OR ANY OF THAT, BEING FORCED TO DO SOMETHING BY

1       SOMEONE WHO IS THEIR CAREGIVER OR HAS LIMITED CONTACT WITH  
2       THEM, AND FOR ALL OF THOSE REASONS, AND BECAUSE OF ALL OF THE  
3       HISTORY AND CHARACTERISTICS OF MR. MCLEOD LAID OUT IN OUR  
4       SENTENCING MEMORANDUM, AND IN OUR LETTERS, I DO BELIEVE THAT A  
5       SENTENCE OF 15 YEARS IS SUFFICIENT TO MEET THE PURPOSES OF  
6       SENTENCING IN THIS CASE, ESPECIALLY WHEN YOU COUPLE THAT WITH  
7       -- I KNOW THE GOVERNMENT IS ASKING FOR A LIFETIME OF SUPERVISED  
8       RELEASE. I THINK 20 YEARS IS SUFFICIENT. DEPENDING ON THE  
9       COURT'S CUSTODIAL SENTENCE, THE LENGTH OF SUPERVISION WE'RE NOT  
10      GOING TO DICKER WITH -- WE'LL BE OKAY WITH. AND WITH THAT, I  
11      WOULD SUBMIT ON ALL OF OUR SUBMISSIONS AND ASK FOR A 15-YEAR  
12      SENTENCE.

13               THE COURT: THANK YOU.

14               MR. MCLEOD, YOU HAVE AN OPPORTUNITY TO ADDRESS THE  
15      COURT, SAY ANYTHING YOU WOULD LIKE TO SAY THIS MORNING. YOU  
16      DON'T HAVE TO SAY ANYTHING OR YOU MAY, SIR, IT'S UP TO YOU.

17               THE DEFENDANT: IS THAT SOMETHING YOU WOULD LIKE FOR ME  
18      TO DO AT THIS TIME?

19               THE COURT: IF YOU WISH TO MAKE A STATEMENT, NOW WOULD  
20      BE THE TIME.

21               I ALSO WANT TO ASK DOES ANYBODY ELSE WISH TO ADDRESS  
22      THE COURT ON BEHALF OF MR. MCLEOD?

23               MS. MORGAN: YES, YOUR HONOR, MR. WOLFE AND MR.  
24      DICKERSON, AS WE PREVIOUSLY INDICATED TO THE COURT, WOULD LIKE  
25      TO ADDRESS THE COURT. I THINK THE REASON WHY MR. MCLEOD IS

1 ASKING IF YOU WANT HIM TO ADDRESS YOU NOW IS BECAUSE IN OTHER  
2 SENTENCINGS I'VE HAD GENERALLY THE DEFENDANT'S ALLOCUTION IS  
3 ONE OF THE LAST THINGS THAT'S HAPPENED, WHEN I EXPLAINED HOW  
4 THINGS WOULD HAPPEN. IT'S FINE.

5 THE COURT: MY PRACTICE AND CUSTOM IS AFTER DEFENSE  
6 COUNSEL TO HEAR FROM ANYBODY ELSE FOR THE DEFENSE, NAMELY, THE  
7 DEFENDANT AND ANYBODY ELSE WHO WISHES TO SPEAK.

8 IF YOU WOULD LIKE TO GO BEFORE THE OTHER SPEAKERS, MR.  
9 MCLEOD, YOU MAY, OR YOU COULD GO AFTER THEM. PRESENT THEM  
10 HOWEVER YOU WOULD LIKE, BUT NOW IS THE TIME TO HEAR IT. THEN  
11 THAT WILL CONCLUDE YOUR OPPORTUNITY TO ADDRESS THE COURT ON  
12 ANYTHING, I'LL GO TO THE GOVERNMENT AND THEN PROBATION.

13 MS. MORGAN: ABSOLUTELY, YOUR HONOR. I JUST WANTED TO  
14 EXPLAIN WHY THERE WAS SOME CONFUSION.

15 THE COURT: THAT'S OKAY. GO AHEAD, WHOEVER WISHES TO  
16 GO FIRST.

17 (DISCUSSION HELD OFF THE RECORD.)

18 THE COURT: DO YOU NEED A BREAK?

19 MS. MORGAN: WE NEED A COMFORT BREAK, YOUR HONOR.

20 THE COURT: WE NEED A BRIEF BREAK. LET'S TAKE A FIVE,  
21 10-MINUTE RECESS, KEEP IT AS SHORT AS WE CAN. THANK YOU.

22 (COURT WAS AT RECESS.)

23 THE COURT: MS. MORGAN, IF MR. MCLEOD WOULD LIKE TO  
24 ADDRESS THE COURT OR IF EITHER OF THE TWO OTHER INDIVIDUALS  
25 WISH TO ADDRESS THE COURT, NOW IS THE TIME TO DO IT.

1 MS. MORGAN: MR. MCLEOD IS PREPARED TO SPEAK FIRST,  
2 YOUR HONOR. THANK YOU.

3 THE COURT: CERTAINLY.

4 PLEASE COME FORWARD, MR. MCLEOD, TO THE PODIUM, SIR.

5 THE DEFENDANT: YOUR HONOR, I APPRECIATE THE  
6 OPPORTUNITY TO SPEAK TO THE COURT. I KIND OF WISH THAT THERE  
7 WAS DIFFERENT OPPORTUNITIES FOR THE DEFENDANT TO GET UP AND SAY  
8 THINGS, AND AT SENTENCING IT SEEMS TO BE THE ONLY OPPORTUNITY  
9 THAT I HAVE TO SPEAK TO EVERYONE IN THE ROOM, AND I'M THANKFUL  
10 THAT EVERYONE IS HERE, ALL THE FAMILY IS HERE. I'M GRATEFUL  
11 THAT MY FAMILY IS HERE. I WANT EVERYONE TO HEAR IT ALL AT THE  
12 SAME TIME. I'M GLAD I HAVE THIS OPPORTUNITY TO ADDRESS  
13 EVERYONE AND SAY WHAT NEEDS TO BE SAID.

14 I WOULD LIKE TO THANK MY FAMILY FOR COMING. THE COURT  
15 KNOWS THEY CAME FROM FLORIDA. THANK YOU. I LOVE YOU FOR  
16 COMING. I'M SO GRATEFUL FOR YOU TO BE HERE. THANK YOU.

17 THE FAMILY ON THE GOVERNMENT SIDE, JOHNATHAN AND MAX,  
18 AND YOUR FAMILY, YOU KNOW, I'M GLAD YOU'RE HERE BECAUSE I OWE  
19 YOU THE LARGEST APOLOGY FOR MY INVOLVEMENT. I MADE AN  
20 IMMATURE, POOR CHOICE, AND YOU GUYS AND YOUR FAMILY, AND THE  
21 FAMILY THAT'S NOT HERE TODAY, THAT HAS HAD AN IMPACT -- ON A  
22 POOR DECISION THAT I HAD MADE HAS BEEN INFLUENCED BY THIS AND I  
23 AM DEEPLY AND TRULY SORRY. I OWN THAT, AND THERE IS NOTHING I  
24 CAN SAY -- THERE ARE NO WORDS THAT I CAN ARTICULATE TO ERASE  
25 THE LAST 30 MONTHS OF WHAT YOU MUST HAVE THOUGHT OF ME OR YOU

1           MUST THINK OF ME THROUGHOUT THE COURSE OF THIS PROCESS.

2                   IF YOU ONLY KNEW, IT WOULD CHANGE SOME THINGS, BUT  
3           WE'RE NOT HERE FOR THAT. BUT I DO WANT YOU GUYS TO TAKE AWAY,  
4           IF ANYTHING, THAT I RECOGNIZE THAT MY INVOLVEMENT IN THIS  
5           SITUATION HAS DEEPLY AND TRULY AND FOREVER, NO MATTER IF I GO  
6           HOME RIGHT NOW OR IF I GO HOME IN 33 YEARS, IT CANNOT BE ERASED  
7           THE IMPACT THAT THE DECISION HAS INFLUENCED UPON THE FAMILY FOR  
8           THE REST OF YOUR LIVES.

9                   I DON'T KNOW IF THESE WORDS ARE COMFORTING. I WOULD  
10          LIKE FOR THEM TO BE, BUT I THANK EVERYONE WHO DID COME TO HEAR  
11          THESE WORDS AND TO HOPEFULLY UNDERSTAND SOME OF THE  
12          CIRCUMSTANCES THAT WERE COMMUNICATED BY MY ATTORNEY AND HOPE  
13          THAT THAT SHEDS SOME LIGHT INTO A LITTLE MORE ABOUT ME.

14                  I'M SORRY TO EVERYONE ELSE IN THIS ROOM FOR THE  
15          DECISION. THESE FOLKS HERE HAVE SPENT COUNTLESS HOURS TRYING  
16          TO WORK THIS THING OUT AND TRYING TO GET THROUGH THIS. I'M  
17          TERRIBLY SORRY TO THE GOVERNMENT THAT YOU HAVE LOST SLEEP OVER  
18          THIS, I HAVE NO DOUBT. YOU GUYS HAVE PROBABLY ARGUED, FUSSED,  
19          FOUGHT, AND CUSSED TRYING TO WORK THROUGH THIS THING, AND I OWN  
20          THE FACT THAT YOU'RE TAKING YOUR LAST 30 MONTHS AND YOU'RE  
21          HAVING TO DEAL WITH THIS AND MAKE THESE APPOINTMENTS WITH THE  
22          COURT BECAUSE OF A CHOICE I MADE. IT WAS TIME OUT OF YOUR  
23          LIFE, YOUR BUSY SCHEDULE, AND I HATE BEING A REASON THAT YOU'RE  
24          HAVING TO OCCUPY SO MUCH OF YOUR TIME AND SO MUCH OF YOUR  
25          ENERGY IN DEALING WITH THIS ISSUE.

1 I EXTEND THE SAME APOLOGIES TO MY COUNSEL BECAUSE I'M  
2 HERE -- THEY HAVE TO BE HERE -- AND THE REST OF THE COURT.  
3 THIS WOMAN'S POOR FINGERS FOR EIGHT DAYS OF TRIAL, I MEAN, I  
4 CAN ONLY IMAGINE, AND I'M SORRY THAT I'M THE REASON THAT THIS  
5 LADY WAS AT WORK FOR EIGHT DAYS AND POUNDING AWAY HER FINGERS  
6 TO ADDRESS THIS CASE.

7 AND, YOUR HONOR, I CAN ONLY IMAGINE WHAT IT'S LIKE TO  
8 SIT IN YOUR CHAIR AND TRY TO FIGURE THIS THING OUT, AND LISTEN  
9 TO THESE ARGUMENTS, AND MAKE GOOD DECISIONS. I DON'T THINK  
10 ANYONE WINS HERE. YOU KNOW, WE'RE ASKING FOR SOMETHING,  
11 THEY'RE ASKING FOR SOMETHING, AND WHEN WE WALK AWAY FROM THIS  
12 NO ONE IS GOING TO BE HAPPY, AND I KNOW THAT. I OWN THAT.  
13 WE'RE HERE TODAY BECAUSE OF A POOR CHOICE THAT I RECOGNIZE.

14 THIS 30 MONTHS THAT I'VE BEEN IN CUSTODY HAS BEEN SUCH  
15 A LEARNING EXPERIENCE. I HAVE SEEN SO MUCH, HEARD SO MUCH, AND  
16 LEARNED SO MUCH. I COME TO YOU A DIFFERENT PERSON, AND I'D SAY  
17 A BETTER PERSON THAN WHEN I WAS ARRESTED. I THOUGHT I WAS A  
18 GOOD PERSON THEN AND KNEW THINGS, BUT THIS EXPERIENCE HAS  
19 REALLY SHOWN ME HOW MUCH I DON'T KNOW, HOW MUCH -- HOW SOME  
20 IMMATURE DECISIONS WHERE I THOUGHT I WAS MAKING -- THERE'S NOT  
21 WORDS TO EXPLAIN THE LEVEL OF SORROW I HAVE IN THIS SITUATION.

22 I APOLOGIZE TO THE COURT. YOU HAVE WORKED THROUGH THIS  
23 CASE WITH US. YOU HAVE -- WE'VE ALL GOTTEN FRUSTRATED IN HERE.  
24 WE HAVE HAD BATTLE AFTER BATTLE OVER ISSUES, AND ETC., AND YOU  
25 HAVE HAD TO PUT UP WITH THIS, AND I'M VERY THANKFUL THAT YOU'RE

1 THE PATIENT PERSON YOU'VE BEEN, AND I'M SORRY THAT MY DECISION  
2 HAS YOU HAVING TO BE IN THIS POSITION TODAY AND MAKE AN  
3 ULTIMATE DECISION ON ANOTHER HUMAN'S LIFE IN THE ROLE THAT YOU  
4 HOLD. I'M SORRY THAT I'M HERE AND YOU'RE HAVING TO DO THIS,  
5 AND I ABSORB SO MUCH ENERGY.

6 IF I COULD REWRITE SOME DECISIONS AND TAKE IT BACK, AND  
7 MAKE A COURSE CHANGE, KNOWING THIS, I WOULD DO ANYTHING TO HAVE  
8 THAT MOMENT BACK, ANYTHING, BUT WE'RE HERE TODAY TO DEAL WITH  
9 WHAT'S IN FRONT OF US. I JUST WANT THE COURT TO UNDERSTAND  
10 THAT I UNDERSTAND AND APPRECIATE THE GRAVITY OF THIS ENTIRE  
11 SITUATION, AND THAT I AM SO REMORSEFUL FOR ALL OF THE PAIN AND  
12 HEARTACHE THAT THIS HAS CAUSED EVERYONE, NOT JUST THE FAMILY,  
13 MY FAMILY, THE COUNSEL IN THIS, AND THE COURT. I RECOGNIZE THE  
14 GRAVITY OF THAT TREMENDOUSLY, AND I THANK YOU FOR THE COURT'S  
15 TIME.

16 THE COURT: THANK YOU, MR. MCLEOD, I APPRECIATE YOUR  
17 COMMENTS.

18 WHO WOULD LIKE TO GO NEXT, MS. MORGAN?

19 MS. MORGAN: MR. WOLFE.

20 THE COURT: OKAY. MR. WOLF, IF YOU WOULD JUST STATE  
21 YOUR FULL AND COMPLETE NAME, SIR.

22 MR. WOLF: ERIC KENNETH WOLFE.

23 THE COURT: LET'S GO AHEAD AND USE THAT MICROPHONE, MR.  
24 WOLF. I KNOW IT'S NOT COMFORTABLE.

25 MR. WOLF: IT'S OKAY.

1                   THE COURT:    THANK YOU.

2                   MR. WOLF:    I DIDN'T WRITE YOU A LETTER.    I WANTED TO BE  
3                   ABLE TO SPEAK TO YOU IN THE COURTROOM.    IT'S BEEN VERY  
4                   DIFFICULT.

5                   I DON'T WANT TO TALK ABOUT THE CASE, BUT I DO WANT TO  
6                   TALK ABOUT THE LIFE TONY AND I HAD TOGETHER BEFORE THIS, AND IT  
7                   WAS GOOD.    I MISS HIM A LOT, AND I STILL SUPPORT HIM.    HIS  
8                   STATEMENT, HE SAID A LOT --

9                   AND GOING BACK TO OUR LIFE TOGETHER, A RESCUE MISSION,  
10                  TONY WENT TO WORK ONE DAY, I WAS AT HOME.    TONY CAME BACK TO  
11                  THE DOOR AND SAID, "GRAB THE CRATE, GRAB THE CRATE," AND HE HAD  
12                  THIS LITTLE BLACK AND WHITE, SKINNY DOG AND I SAID, "NO, WE ARE  
13                  NOT KEEPING THIS DOG.    BRING IT SOMEWHERE ELSE.    IT'S NOT  
14                  STAYING WITH US."    HE SAID, "WE HAVE TO KEEP IT.    WE HAVE TO  
15                  TAKE CARE OF THIS DOG."    AND TONY TOLD ME THE DOG WAS RUNNING  
16                  DOWN THE STREET AND WENT UNDERNEATH A CITY BUS, AND TONY PULLED  
17                  OVER, WENT UNDERNEATH THAT BUS, UNDERNEATH THIS BUS, AND  
18                  GRABBED THE DOG.    MY MOM NOW HAS THAT DOG.    SHE'S HAD THAT DOG  
19                  SINCE HE RESCUED THAT DOG.    THAT'S THE KIND OF PERSON THAT HE  
20                  IS.

21                  WE SEE HIM OVER HERE IN RED, AND PEOPLE IN THE  
22                  COURTROOM MAY VIEW HIM AS AN EVIL PERSON, AS JUST THIS TERRIBLE  
23                  PERSON, BUT THIS PERSON RIGHT OVER HERE TO ME IS A PERSON THAT  
24                  HAS A LOT OF LOVE IN HIM AND A BIG PART OF MY HEART.    I THINK  
25                  THAT'S ALL I WANT TO SAY BECAUSE I DON'T WANT TO BREAK DOWN.

1                   THE COURT:    I APPRECIATE YOUR COMMENTS, MR. WOLFE.  
2                   THANK YOU.

3                   MR. WOLFE:    THANKS.

4                   THE COURT:    DOES MR. DICKERSON WISH TO COMMENT?

5                   MS. MORGAN:   YES.

6                   THE COURT:    OKAY.

7                   MR. DICKERSON:  GOOD MORNING, YOUR HONOR, MY NAME IS  
8                   MARK DICKERSON.

9                   THE COURT:    THANK YOU, SIR.

10                  MR. DICKERSON:  I MET TONY WHEN HE WAS 11 YEARS OLD,  
11                  QUITE A DIFFERENT PERSON THEN.  I WAS IN CHARGE OF A WILDERNESS  
12                  PROGRAM, A NEW EXPERIMENTAL PROGRAM IN THE STATE OF TENNESSEE  
13                  FOR PEOPLE WHO HAD BEEN IN THE SYSTEM FOR A LONG TIME, AND WE  
14                  TRIED TO TEACH THEM LIVING BEHAVIORS AND GETTING ALONG WITH  
15                  OTHERS AS THE BASIS OF A TREATMENT PROGRAM, SO 11 YEARS OLD.

16                  HE WENT THROUGH THAT PROGRAM, AND I WENT ON TO START  
17                  ANOTHER ONE.  HE WAS STUDENT NUMBER ONE IN THAT PROGRAM.  I'LL  
18                  NEVER FORGET THE HOURS AND HOURS WE WOULD SPEND LOOKING AT CASE  
19                  NOTES, AND I'LL NEVER FORGET WHAT AN IMPACT HE MADE ON ME EVEN  
20                  AT 11 BEFORE I'D MET HIM, AND THEN WHEN HE WALKS IN THE DOOR,  
21                  AS AN INTERVIEW, WHAT A PRECOCIOUS YOUNG MAN.

22                  WELL, FAST FORWARD, AT ALMOST 14 -- WHEN HE WAS 14,  
23                  ONCE AGAIN THE STRANGEST THING IN FAMILY COURT, THAT DAY I WENT  
24                  AND CAME HOME WITH A PARTING GIFT, CONGRATULATIONS, IT'S A  
25                  CHILD.  IT WASN'T VERY LONG BEFORE WE REALIZED WITH MY MOTHER

1 LIVING WITH ME THAT WE REALIZED THAT THIS WAS MEANT TO BE, AND  
2 I THINK IT SHOULD BE SAID THAT TONY STAYED WITH US FROM THE  
3 TIME HE WAS 15 FAR INTO HIS MID-20'S. AND THEN EVEN WHEN I  
4 TOOK A JOB BEING ON THE ROAD NONSTOP FOR TWO YEARS IN ANOTHER  
5 LINE OF WORK, TONY AND ERIC WERE MY MOTHER'S MAIN CAREGIVERS  
6 FOR TWO YEARS.

7 FROM THE TIME TONY CAME TO LIVE WITH ME, EVEN UP UNTIL  
8 A FEW DAYS BEFORE HIS ARREST, I CAN'T REMEMBER MORE THAN A FEW  
9 DAYS THAT WENT BY WITHOUT HE AND I COMMUNICATING, AND I DON'T  
10 THINK HE EVER SPENT A NIGHT IN MY HOME WHERE HE DIDN'T HEAR AN  
11 "I LOVE YOU" THE LAST THING HE HEARD BEFORE HE WENT TO BED.

12 NOW, I SAY ALL THAT NOT TO SAY ALL SUCH FLOWERY THINGS,  
13 BUT AT THE END OF THE DAY I THINK I KNOW THIS PERSON MORE THAN  
14 ANYONE, MORE THAN THE PSYCHOLOGISTS, MORE THAN THE  
15 PSYCHIATRISTS, MORE THAN ACQUAINTANCES, FRIENDS. I SERVED IN  
16 MANY ROLES, BUT MY MAIN ROLE WAS DAD AND BRINGING HIM INTO A  
17 HOME AND TRYING TO TEACH HIM THE VALUES OF A FAMILY, WHEN HE  
18 NEVER HAD THAT, IS QUITE A JOB FROM 15 ON. HE WOULD ALWAYS  
19 REMIND ME THAT THAT'S WHY HE HAD TO STAY A LOT LONGER WITH ME  
20 BECAUSE HE MISSED THE FIRST 14 YEARS.

21 HE AND MY MOTHER WERE VERY CLOSE. MY MOTHER DIED  
22 ALMOST -- A LITTLE OVER THREE YEARS AGO, AND I'LL NEVER FORGET  
23 WHEN THE DOCTORS CAME TO US AND SAID, "SHE'S NOT LEAVING THIS  
24 ROOM. SHE MAY HAVE 72 HOURS," AND I'LL NEVER FORGET IT WAS  
25 TONY AND I THAT WENT IN AND TOLD HER, AND THE BOND THAT HE HAD

1 WITH MY MOTHER WAS UNBELIEVABLE AS THE REAL FIRST MOTHER  
2 RELATIONSHIP, MOTHER/GRANDMOTHER RELATIONSHIP COMBINATION, THAT  
3 HE HAD EVER HAD.

4 SO ONCE AGAIN I KNOW THIS PERSON. HE HAS OVERCOME  
5 INSURMOUNTABLE ODDS. I WAS TOLD THAT HE WOULD NEVER GRADUATE  
6 HIGH SCHOOL. HE DID. HE WENT TO A LOCOMOTIVE PROGRAM AND  
7 GRADUATED WITH HONORS, AND WAS A CONDUCTOR OF A RAILROAD FOR  
8 YEARS. HE WENT TO THE POLICE ACADEMY. HE STUDIED VOCABULARY.  
9 THIS PERSON, WHO WAS MARKED AS JUST ANOTHER PRODUCT OF THE  
10 SYSTEM, WENT ON TO BECOME A LOVING, NURTURING, CARING PERSON.  
11 HE IS MY ONLY FAMILY. I HAVE A SMALL FAMILY, AND HE REALLY IS  
12 IT.

13 I BEG THE COURT FOR LENIENCY, NOT NECESSARILY JUST FOR  
14 HIS SAKE BUT FOR MINE. HE'S MY ONLY FAMILY IN THE WORLD, AND  
15 THESE LAST 30 MONTHS HAVE BEEN BEYOND ANYTHING I COULD IMAGINE.  
16 I ASK FOR LENIENCY. I ASK THAT IF THERE'S ANY WAY THAT THE  
17 COURT CAN HAVE HIM TO BE LOCATED IN A FACILITY AT LEAST  
18 SOMEWHERE NEAR THE EAST COAST. 3,000 MILE TRIPS ARE VERY  
19 DIFFICULT FOR VISITS.

20 BUT I JUST WANT THIS COURT TO KNOW THAT THE PERSON THAT  
21 HAS BEEN PAINTED HERE THROUGH THE RECORDS AND OVER THE LAST  
22 30 MONTHS IS NOT THE PERSON THAT HE IS. I HAVE SEEN HIM GROW  
23 FROM A VERY PRECOCIOUS, CONFUSED YOUNG MAN TO THE WONDERFUL MAN  
24 THAT HE IS TODAY. THE PERSON HE IS, AND I KNOW HIM TO BE,  
25 COULD NOT BE FARTHER FROM WHAT HE'S BEEN PAINTED.

1           THE ONE THING I APPRECIATE IS HIS TAKING RESPONSIBILITY  
2           FOR HIS ACTIONS. THE MAIN THING I TRIED TO TEACH HIM IN ALL  
3           THOSE YEARS IS BE RESPONSIBLE FOR YOUR ACTIONS. GOOD JOB, SON.  
4           THANK YOU.

5           THE COURT: THANK YOU, MR. DICKERSON.

6           MS. MORGAN: YOUR HONOR, JUST TO FOLLOW UP WHAT MR.  
7           DICKERSON SAID, I FORGOT TO MAKE THIS ADDITIONAL REQUEST, BUT  
8           WE ARE REQUESTING A DESIGNATION TO THE STATE OF FLORIDA. THERE  
9           IS AT LEAST ONE PRISON THERE THAT HAS THE REQUISITE PROGRAM,  
10          AND THERE'S ALSO ANOTHER THAT IS ONLY AN HOUR OUTSIDE TAMPA.  
11          SO IF THE COURT WOULD MAKE THAT RECOMMENDATION TO THE BUREAU OF  
12          PRISONS.

13          THE COURT: CERTAINLY. THANK YOU VERY MUCH.

14          MS. KAISER.

15          MS. KAISER: YOUR HONOR, I WAS TALKING WITH MY  
16          CO-COUNSEL AND IT MAY ASSIST THE COURT IF MAYBE WE SHOULD DO  
17          THE VICTIMS FIRST AND THEN I CAN SPEAK LAST.

18          THE COURT: HOWEVER YOU WOULD LIKE TO PRESENT IT.  
19          YOU'LL GET ONE OPPORTUNITY, AS THE DEFENSE DID. YOU CAN GO  
20          FIRST OR THEY MAY GO FIRST, WHICHEVER YOU PREFER, MS. KAISER.

21          MS. KAISER: YOUR HONOR, WE'LL TALK AT THE END, BUT  
22          YOUR HONOR'S HEARD A LOT FROM US. I THINK IT'S THEIR TIME.

23          THE COURT: THAT'S FINE.

24          MR. N. CAREY: I'M NEIL CAREY, N-E-I-L C-A-R-E-Y. I AM  
25          MAXWELL CAREY'S FATHER AND JOHNATHAN CAREY'S UNCLE -- OR

1           JOHNATHAN AGUIRRE.    I APOLOGIZE.

2                       I MUST SAY THAT THE LAST 30 MONTHS HAVE BEEN VERY  
3 TRYING FOR OUR FAMILY.   IT'S PUT US THROUGH A LOT.   IT PUT A  
4 LOT OF TENSION BETWEEN ME AND MY SON, OTHER FAMILY MEMBERS.   IT  
5 STILL CURRENTLY ISN'T QUITE CORRECT, AND IT'S GOING TO TAKE  
6 AWHILE.   WE'VE ALL CHOSEN TO DEAL WITH IT IN OUR OWN FASHIONS.  
7 BETWEEN ME AND MY SON, DEFINITELY WE HAVE EXPERIENCED QUITE A  
8 FEW OCCASIONS OF OUTBURSTS BETWEEN HIM AND I.   IT'S A HARD  
9 THING FOR EITHER ONE OF US TO ACCEPT.

10                   WITH JOHNATHAN, YOU KNOW, I DO WANT TO SPEAK TO THE  
11 FACT THAT IF AT ANY TIME HE WAS OR THOUGHT TO BE IN AN ABUSIVE  
12 HOME, HE ALWAYS KNEW THAT HIS UNCLE, HE COULD COME TO OUR  
13 HOUSE.   HE SPENT PLENTY OF TIME WITH ME.

14                   I THINK THE ACTIONS OF TONY WERE INEXCUSABLE.   AT NO  
15 TIME DOES ONE CHOOSE TO HELP ANOTHER PERSON BY CONDUCTING  
16 THEMSELVES IN INAPPROPRIATE SEXUAL CONDUCT WITH A MINOR.   I  
17 MEAN, I DON'T SEE HOW IN ANYBODY'S EYES THAT COULD EVER BE  
18 VIEWED AS HELPING AN INDIVIDUAL.

19                   WE'RE GOING TO CONTINUE TO GO THROUGH THIS FOR A LONG  
20 TIME.   I HAVE A 6-YEAR OLD SON, AS WELL AS I HAVE A YOUNG  
21 NIECE, TAY.   YOU KNOW, AS PARENTS BRINGING THEM UP WE HAVE A  
22 COMPLETE -- I THINK I CAN SPEAK FOR MY WIFE ON THIS TOO,  
23 COMPLETE DIFFERENT PERSPECTIVE ON HOW WE'LL CONDUCT THINGS.  
24 VIDEO GAMES ARE NO LONGER LOCATED IN BEDROOMS.   THEY ARE  
25 LOCATED IN THE LIVING ROOM.   THEY WILL BE MONITORED AT ALL

1           TIMES. I'M NOT GOING TO DISCONNECT OR ALTER THE WORLD FOR MY  
2           CHILDREN WHERE THEY CAN'T LIVE LIKE OTHER PEOPLE BECAUSE OF  
3           THIS INCIDENT, BUT IT'S DEFINITELY MONITORED TO A MUCH GREATER  
4           EXTENT THAN IT WAS BEFORE, EVEN THOUGH WE THOUGHT WE WERE DOING  
5           A GOOD JOB.

6           THESE PEOPLE THEY PREY. THEY'RE VERY ELUSIVE. I COME  
7           TO FIND OUT I WAS SITTING ADJACENT TO ONE AT WORK THAT WAS JUST  
8           RECENTLY THROUGH THESE DOORS. THEY'RE EVERYWHERE. IT'S SCARY  
9           AS A PARENT TO KNOW THAT.

10          AND I DO FEEL FOR TONY'S FAMILY. I APOLOGIZE THAT  
11          THEY'RE HAVING TO GO THROUGH THIS. I DON'T THINK ANY PARENT  
12          SHOULD EVER HAVE TO DEAL WITH THIS, JUST AS WE SHOULDN'T. I  
13          TRUST IN THE COURT THAT THEY'LL MAKE THE CORRECT DECISION AND  
14          THAT THEY'LL GIVE THE APPROPRIATE SENTENCE FOR THIS.

15          BUT ONE THING I WOULD LIKE TO POINT OUT IS IF THINGS  
16          WERE JUST A LITTLE BIT DIFFERENT, HOW MAY THIS HAVE ENDED? IT  
17          MAY NOT HAVE BEEN A TRIAL OF THIS SORT. IT COULD HAVE BEEN A  
18          MURDER TRIAL. WE DON'T KNOW THAT. THESE ARE THINGS THAT NEVER  
19          WERE ABLE TO COME TO FRUITION. IF IN THE FUTURE IF HE'S  
20          RELEASED, I'LL ALWAYS CARRY IT AROUND IN THE BACK OF MY MIND  
21          OF, YOU KNOW, IS THERE GOING TO BE ANOTHER ONE? IS IT GOING TO  
22          END IN A DIFFERENT FASHION? THE FACT THAT THERE WAS A GUN IN  
23          THE CAR. IT'S A LITTLE SCARY. I MEAN, HE COULD HAVE USED THAT  
24          AS A DIFFERENT EXIT STRATEGY.

25          I JUST DON'T AGREE IN WHAT HE SAYS IS A RESCUE MISSION.

1 I DON'T THINK BY ANY MEANS IT'S A RESCUE MISSION. THIS WAS FOR  
2 SELF BENEFIT. HE DID THINGS THAT REALLY AREN'T SOMETHING THAT  
3 YOU DO WHEN YOU'RE TRYING TO HELP SOMEBODY.

4 WE'RE JUST GOING TO CONTINUE GOING ON WITH OUR LIVES,  
5 TRY TO PUT THIS AS FAR BEHIND US AS WE POSSIBLY CAN. WE KNOW  
6 MORE THAN LIKELY WE'LL BE BACK HERE DEALING WITH THIS PROBABLY  
7 FOR THE REST OF OUR LIVES OR THE MAJORITY OF IT WITH THE  
8 APPEALS PROCESS AND WHAT HAVE YOU. THAT'S PART OF OUR REALITY  
9 NOW THAT WE HAVE TONY TO THANK FOR. THAT'S BASICALLY HOW THE  
10 REST OF OUR LIVES WILL BE. IT'S TRYING, BUT WE'LL DO IT.  
11 WE'RE A STRONG FAMILY. WE'LL PULL IT TOGETHER EVENTUALLY.  
12 IT'S JUST HASN'T BEEN EASY, AND WE'LL FIGURE IT OUT FROM HERE.

13 SO I TRUST YOU'LL MAKE THE RIGHT DECISION. TAKE CARE,  
14 YOUR HONOR.

15 THE COURT: THANK YOU, MR. CAREY, I APPRECIATE YOUR  
16 COMMENTS.

17 WHO ELSE WOULD LIKE TO ADDRESS THE COURT?

18 MS. KAISER: LUIS RAMIREZ.

19 MR. RAMIREZ: GOOD MORNING, YOUR HONOR.

20 THE COURT: GOOD MORNING, MR. RAMIREZ.

21 MR. RAMIREZ: MY NAME IS LUIS RAMIREZ. I AM JOHNATHAN  
22 AGUIRRE'S STEPFATHER. I PREPARED A STATEMENT, AS WE WERE  
23 ASKED. I WOULD JUST LIKE TO DIG INTO IT.

24 THE COURT: STEP A LITTLE BIT CLOSER TO THE  
25 MICROPHONE, SIR.

1                   MR. RAMIREZ:   SURE.   YOUR HONOR, I CANNOT STOP THINKING  
2                   OF THE DAY THIS NIGHTMARE BEGAN.   I HAD JUST STARTED A NEW JOB  
3                   THE WEEK PRIOR AND RECEIVED A CALL FROM LANAI INDICATING  
4                   JOHNATHAN HAD NOT SHOWN UP AT THE PICKUP POINT FOR MY FATHER.  
5                   THE IMPACT OF SEEING POLICE AT MY HOUSE AND WIFE IN TOTAL PANIC  
6                   WAS A SHOCK.   AFTER HOURS OF SEARCHING ON OUR OWN AROUND TOWN,  
7                   NETWORKING WITH HIS FRIENDS AND ACQUAINTANCES TO NO AVAIL, THE  
8                   SITUATION HAD GREATLY INTENSIFIED.   ALTHOUGH I HAVE CYCLED  
9                   THROUGH MY FEELINGS THROUGHOUT THAT DAY, WHAT STICKS OUT FOR ME  
10                  WAS THE PROMISE, "WE KNOW WHERE HE IS, AND HE WILL BRING HIM  
11                  BACK TO YOU ALIVE."

12                 AS A FAMILY, WE HAVE CHANGED.   WE WERE FRAGMENTED FOR  
13                 SOME TIME, BUT WE'LL GROW AGAIN.   THE DEPTH OF THIS INCIDENT  
14                 HAS CAUSED US TO BE FEARFUL EVEN AFTER DEALINGS WITH POLICE,  
15                 DETECTIVES, PROSECUTION TEAMS HAVE ENDED.   I FEEL MORE AWARE OF  
16                 MY SURROUNDINGS AND WHAT LIES BEHIND EVERYDAY HAPPENINGS  
17                 OVERLOOKED BEFORE.   THE FRUSTRATIONS WE HAVE FELT OVER THE  
18                 PROCEEDINGS AND THE DEFENDANT'S AUDACIOUS CLAIMS THAT THIS WAS  
19                 A RESCUE MOTION GONE AWRY HAVE BEEN TOO MUCH AT TIMES.

20                 I'M OLD ENOUGH TO WRAP MY HEAD AROUND WHAT HAS  
21                 TRANSPIRED.   I'VE MANAGED TO HAVE KEPT BUSY WITH MY JOB AND  
22                 ENSURING WE HAVE THE NECESSITIES TO KEEP GOING.   MUCH OF THIS  
23                 TIME TRAPPED FEELINGS WERE ONLY -- THAT WERE ONLY EXISTING,  
24                 AWAITING WORD FOR THE NEXT STEP IN THE JUDICIAL PROCESS.   WHAT  
25                 I LACK IS PROVIDING THE COMPLETE SUPPORT AND ASSURANCE TO MY

1           FAMILY THAT THIS IS WELL BEHIND US, MOREOVER, THAT THIS WILL  
2           NEVER HAPPEN AGAIN.

3                   WE'RE ONLY JUST BEGINNING TO SEE OUR SON MATURE INTO  
4           BEING SOMETHING OTHER THAN A VICTIM. HE HAS COME A LONG WAY  
5           SINCE THOSE INITIAL DAYS BACK. I HAVE EXPERIENCED HIM BECOME  
6           MORE ASSERTIVE, OUTGOING AND FOCUSED. I AM VERY PROUD OF HIM.  
7           WE ARE ALL PROUD OF HIM.

8                   WE HAVE HAD THIS PAIN INFLICTED UPON US WITHOUT CAUSE.  
9           I STRONGLY BELIEVE IT IS TIME TO INDEMNIFY MY FAMILY BY  
10          IMPLORING YOUR HONOR TO HAND DOWN THE MAXIMUM SENTENCE ALLOWED.  
11          GIVEN THE BRAZENNESS AND MANIPULATIVE NATURE EXPOSED IN COURT  
12          PROCEEDINGS, WHICH WERE PROVEN, ANYTHING LESS FOR THIS  
13          PERPETRATOR WOULD BE DISTRESSING TO THE VICTIMS AND DETRIMENTAL  
14          TO THE PUBLIC IN YEARS TO COME. THANK YOU.

15                   THE COURT: THANK YOU VERY MUCH, MR. RAMIREZ.

16                   MS. KAISER: CAMERON RAMIREZ, YOUR HONOR.

17                   MRS. RAMIREZ: I WANTED TO START OFF WITH MENTIONING  
18          THE GUN ALSO IN THE VEHICLE.

19                   THE COURT: WOULD YOU STATE YOUR FULL NAME FOR US.

20                   MRS. RAMIREZ: CAMERON RAMIREZ.

21                   THE COURT: THANK YOU, MA'AM.

22                   MRS. RAMIREZ: IT WAS STATED THAT THE GUN WAS NEVER  
23          BROUGHT INTO TRIAL, THAT MY SON NEVER SAW THE GUN, BUT ALSO MY  
24          SON NEVER MADE IT TO THE CAR DUE TO THEY DID ARREST HIM ON THE  
25          TARMAC, SO IT DOES MAKE ME WONDER WHAT WOULD HAVE HAPPENED TO

1 HIM HAD HE ACTUALLY GOTTEN IN THAT CAR. MCLEOD WAS ALREADY  
2 AWARE THAT THE POLICE WERE ONTO HIM, AND EVEN THEN HE DECIDED  
3 TO FLY ACROSS THE COUNTRY AND COME AND PICK UP MY SON, KNOWING  
4 THE POLICE WOULD BE KNOCKING ON HIS DOOR AT ANY TIME, AND I  
5 DON'T SEE WHY HE WOULD WANT THE VICTIM IN HIS HOUSE WITH HIM  
6 WHEN THE POLICE DID COME KNOCKING ON HIS DOOR. SO MY STRONG  
7 BELIEF IS THAT HE MOST LIKELY WAS GOING TO KILL HIM.

8 THE NIGHT MY SON WENT MISSING I COULD ACTUALLY PICTURE  
9 HIM BEING BURIED. I DID NOT THINK I WAS GOING TO GET HIM BACK  
10 ALIVE. RIGHT AWAY I KNEW THAT THE DEFENDANT HAD HIM. I HAD  
11 BEEN RESEARCHING HIM FOR 11 DAYS PRIOR, USING EVERY SEARCH  
12 ENGINE POSSIBLE TO FIGURE OUT WHO THIS DEFENDANT WAS, AND  
13 CONTINUED TO NOTIFY POLICE. WHEN POLICE CAME TO MY HOUSE, I  
14 COULDN'T GET OFF MY DRIVEWAY. I WAS -- JUST COLLAPSED. MY  
15 DAUGHTER, 17-YEAR OLD -- 18-YEAR OLD NOW, HAD TO DEAL WITH  
16 WATCHING HER BROTHER, FINDING OUT ABOUT THE RELATIONSHIP,  
17 HAVING TO CHANGE SCHOOLS BECAUSE OTHER CHILDREN WERE AWARE OF  
18 WHAT HAD HAPPENED AT HIS PREVIOUS SCHOOL, AND SHE HAD TO TAKE  
19 ON THE PROTECTOR ROLE FOR HIM.

20 WHAT THE DEFENDANT HAS DONE IS UNFORGIVEABLE AND WAS  
21 DONE FOR HIS OWN SICK PLEASURE. THE DEFENDANT WAS VERY BOLD,  
22 AND HE WENT TO GREAT LENGTHS TO KIDNAP MY SON. MY SON IS  
23 CHANGED FOR LIFE DUE TO THE ACTIONS OF MCLEOD, AND HE NO LONGER  
24 HAS HIS INNOCENCE. HE ALSO IS CONSTANTLY IN FEAR, AND HAS BEEN  
25 ROBBED OF HIS CHILDHOOD.

1 I HONESTLY FEEL THE DEFENDANT, KNOWING THE POLICE WERE  
2 ALREADY IN CONTACT, WOULD BE LOOKING FOR HIM. THE DEFENDANT  
3 HAD A LOADED GUN IN HIS CENTER CONSOLE WITH TWO MAGAZINES.  
4 THAT MAKES ME STRONGLY BELIEVE THAT JOHNATHAN WAS GOING TO BE  
5 KILLED SO HE COULD GET RID OF THE EVIDENCE. IF MCLEOD IS  
6 RELEASED, THIS HAS JUST BEEN A LEARNING EXPERIENCE FOR HIM, AND  
7 I FEAR THAT NEXT TIME HE WILL BE SUCCESSFUL IN GETTING RID OF  
8 HIS VICTIMS. HE IS A VERY DANGEROUS MAN, AND HE HAS NO REMORSE  
9 FOR WHAT HE HAS DONE.

10 YOUR HONOR, I AM REQUESTING YOU GIVE THE DEFENDANT THE  
11 MAXIMUM SENTENCE ALLOWED BY THE COURT. OVER THE PAST TWO  
12 AND-A-HALF YEARS OUR FAMILY HAS BEEN THROUGH SO MUCH BY THE  
13 ACTIONS OF THE DEFENDANT. THE DEFENDANT HAS SHOWN SIGNS OF NO  
14 REMORSE. DUE TO HIS SICK PLEASURE, HE PUT OUR FAMILY THROUGH  
15 SO MUCH TURMOIL. I WOULD LIKE TO ASK THE COURT IF ANYONE WOULD  
16 FEEL COMFORTABLE LEAVING THEIR CHILDREN OR GRANDCHILDREN WITH  
17 THE DEFENDANT AFTER HE IS RELEASED.

18 DUE TO THE ACTIONS OF THE DEFENDANT, I HAVE LOST MY  
19 JOB, WHICH HAS BEEN A HORRIBLE HARDSHIP ON OUR FAMILY. MY  
20 DAUGHTER ALSO WOULD HAVE LIKED TO SPEAK, HOWEVER, DUE TO THE  
21 CHANGES IN THE COURT'S SCHEDULE, SHE WAS UNABLE TO MAKE IT  
22 TODAY.

23 WE AS A FAMILY HAVE LOST OUR SENSE OF SECURITY, AND  
24 WE'RE ALWAYS LOOKING OVER OUR SHOULDER. I WOULD ALSO LIKE TO  
25 MENTION THAT MY NOW 8-YEAR OLD DAUGHTER HAS BEEN -- WHAT SHE

1 HAS BEEN THROUGH. SHE BEGGED ME FOR THIS TO FINALLY BE OVER SO  
2 SHE CAN FINALLY HAVE HER MOTHER BACK. THIS HAS BEEN EXTREMELY  
3 HARD FOR HER. SHE CAME HOME ON JUNE 10TH, 2013 TO POLICE CARS  
4 ALL AROUND THE HOME, KNOWING HER BROTHER WAS GONE.

5 I BEG YOU TO GIVE HIM THE MAXIMUM SENTENCE ALLOWED. IF  
6 HE WOULD HAVE COMMITTED THESE CRIMES SEPARATELY, THEN HE WOULD  
7 HAVE BEEN CONVICTED SEPARATELY AND HANDED DOWN SEPARATE  
8 SENTENCES. THANK YOU, YOUR HONOR.

9 THE COURT: THANK YOU, MRS. RAMIREZ.

10 IS THERE ANYBODY ELSE WHO WOULD LIKE TO ADDRESS THE  
11 COURT?

12 MS. KAISER: TWO MORE, YOUR HONOR.

13 THE COURT: CERTAINLY.

14 MR. M. CAREY: GOOD MORNING, YOUR HONOR.

15 THE COURT: STATE YOUR FULL AND COMPLETE NAME.

16 MR. M. CAREY: MAXWELL JOHNATHAN CAREY.

17 THE COURT: THANK YOU.

18 MR. M. CAREY: WHAT WE'VE BEEN THROUGH THESE PAST TWO  
19 YEARS HAS ALMOST COMPLETELY DESTROYED MY FAMILY, AND THAT MOST  
20 OF THE TIME WE HAVE TROUBLE TOGETHER BECAUSE OF THIS. AND IT'S  
21 HARD ON HIS FAMILY BECAUSE OF WHAT HE'S DONE, AND IT'S HIS  
22 MISTAKE, BUT I THINK WHAT HE'S DONE TO US IS A LOT GREATER THAN  
23 WHAT HE'S DONE TO HIS FAMILY ON HIS SIDE BECAUSE WE CAN BARELY  
24 OPERATE ON OUR SIDE. THAT'S BASICALLY WHAT I HAD TO SAY.

25 THE COURT: THANK YOU.

1 MR. M. CAREY: THANK YOU.

2 THE COURT: I APPRECIATE YOUR COMMENTS.

3 MR. J. AGUIRRE: GOOD MORNING, YOUR HONOR.

4 THE COURT: STATE YOUR FULL AND COMPLETE NAME.

5 MR. J. AGUIRRE: JOHNATHAN DANA J. AGUIRRE.

6 THE COURT: GO AHEAD.

7 MR. J. AGUIRRE: FIRST, I WOULD LIKE TO TALK ABOUT HOW  
8 IT HAS AFFECTED MY LIFE VERY MUCH, SUCH AS THAT I HAVE INTENSE  
9 FEAR AS I GO. I HAVE VERY BAD TRUST ISSUES BETWEEN ANYONE. AS  
10 I CAN SPEAK RIGHT NOW, MY HEART'S RACING BECAUSE I HAVE THAT  
11 INTENSE FEAR, AND JUST THE THOUGHT OF GOING THROUGH THIS HAS  
12 AFFECTED MY LIFE VERY GREATLY AND HAS AFFECTED MY FAMILY IN AN  
13 EXTREMELY BIG AMOUNT I WOULD SAY.

14 OUR FAMILY HAS PRACTICALLY BROKEN UP BECAUSE ALL THIS  
15 FRICTION WITH THE COURT HAS AFFECTED OUR FAMILY VERY GREATLY.  
16 I WOULD SAY THAT HALF OUR FAMILY DON'T REALLY TALK TO EACH  
17 OTHER ANYMORE BECAUSE -- THE AMOUNT OF GUILT, I CAN'T TALK --  
18 WHEN I SEE MY FAMILY I HAVE THE GREATEST AMOUNT OF GUILT I'VE  
19 EVER FELT BEFORE.

20 I HAVE PROBLEMS FOCUSING IN SCHOOL. I HAVE PROBLEMS  
21 MAKING FRIENDS. I'VE MOVED THROUGH THREE SCHOOLS IN THE LAST  
22 THREE YEARS. I'VE BEEN THROUGH EVERY SCHOOL IN ESCONDIDO.  
23 IT'S VERY HARD TO HAVE IT NOT AFFECT ME GREATLY.

24 IT'S HARD FOR ME TO KEEP A SMILE ON MY FACE. I'M  
25 USUALLY A VERY HAPPY, VERY CARING PERSON, BUT LATELY I'VE BEEN

1           VERY DOWN AND VERY QUIET AND TO MYSELF. I HAVE PRACTICALLY  
2           LOST A RELATIONSHIP WITH MY ENTIRE FAMILY BECAUSE I HAVE THE  
3           VERY GREAT AMOUNT OF GUILT.

4           I CAN'T LOOK AT HIS FAMILY WITHOUT SEEING HIM, WITH HIS  
5           ACTIONS THAT AFFECTED MY FAMILY VERY, VERY GREATLY. JUST  
6           SITTING AND THINKING THAT THEY'RE SITTING THERE DEFENDING HIM  
7           STILL WHEN THEY ACTUALLY KNOW WHAT HE'S DONE, AND THE FACT THAT  
8           HE ACTUALLY DID THIS TO TWO PEOPLE, ME AND MY COUSIN. ME AND  
9           MY COUSIN WE'RE STILL UNDERAGE, AND IT SHOWS THAT HE'S GREATLY  
10          AFFECTED BOTH OF US. IT'S GREATLY AFFECTED OUR RELATIONSHIP  
11          WITH OUR PARENTS AND THE REST OF OUR FAMILY.

12          THIS HAS AFFECTED MY SCHOOL SUCH AS THAT NOW VERY  
13          RARELY I HAVE BREAKDOWNS. I WALK OUT OF CLASS BECAUSE I CAN'T  
14          DEAL WITH THE AMOUNT OF PRESSURE ANYMORE. AS I'M SPEAKING, I'M  
15          SHAKING A LOT. I CAN FEEL -- IT'S HARD.

16          THE COURT: I UNDERSTAND.

17          MR. J. AGUIRRE: THIS INCIDENT WITH THE DEFENDANT  
18          HAVING NOW HAPPENED I REALIZE THAT YOU HAVE TO SPEND LOTS OF  
19          TIME WITH THIS PERSON IN ORDER TO TRUST SOMEONE. I WOULD NOT  
20          FEEL SAFE IF HE WAS BACK OUT ON THE STREETS. I WOULD NOT FEEL  
21          SAFE IF HE DID NOT HAVE FULL SUPERVISED RELEASE FOR THE REST OF  
22          HIS LIFE. I WOULD LIKE THE MAXIMUM AMOUNT OF PENALTY HE COULD  
23          GET. I'M SORRY.

24          THE COURT: TAKE YOUR TIME, JOHNATHAN. IT'S ALL RIGHT.

25          MR. J. AGUIRRE: THE AMOUNT IT'S AFFECTED MY PARENTS.

1 I DON'T REALLY SEE MY FATHER ANYMORE BECAUSE THROUGH ALL THIS I  
2 DON'T KNOW IF MY DAD HAS THE -- MY DAD DOESN'T KNOW WHAT TO DO.  
3 HE JUST DOES NOT KNOW WHAT TO DO. HE DOES NOT KNOW HOW TO  
4 APPROACH ME ABOUT THIS. HE DOES NOT KNOW WHAT IS GOING ON  
5 BECAUSE HE HAS THE FEAR OF IT.

6 MY STEPFATHER, HE'S BEEN THERE SINCE I WAS LITTLE, AND  
7 HE'S LOVED ME SINCE HE FIRST MET ME. HE TREATS ME AS A SON,  
8 AND SO DOES MY UNCLE, NEIL CAREY, HE TREATS ME AS ONE OF HIS  
9 SONS, TOO. AND I FEEL SAFE AROUND MY FAMILY, BUT WHEN I SEE MY  
10 MOM HER BREAK DOWN CONSTANTLY, IT HURTS. THIS HAS CREATED A  
11 VERY BIG PROBLEM IN OUR LIVES. OUR WHOLE ENTIRE FAMILY'S LIVES  
12 WE HAVE DEALT WITH SO MANY, SAY, FIGHTS, FRICTION.

13 AND THE FACT THAT HE IS ASKING FOR THE LITTLEST -- SOME  
14 PENALTY THAT IS NOT -- HE'S ASKING FOR LESS OF A PENALTY THAN  
15 HE IS DESERVED. HE'S DONE THIS BEFORE I WOULD SAY. HE DID  
16 THIS TO MY COUSIN. MY COUSIN, THE ONE I LOVE GREATLY. I  
17 BARELY GET TO SEE HIM ANYMORE BECAUSE IT'S CAUSED VERY, VERY  
18 GREAT FRICTION BETWEEN MY FAMILY AND I.

19 I DON'T REALLY -- NOW, I HIDE IN MY ROOM BECAUSE I DO  
20 NOT HAVE -- I FEEL A GREAT AMOUNT OF GUILT WHEN I'M AROUND THE  
21 HOUSE. I FEEL LIKE I DON'T BELONG AT THE HOUSE ANYMORE BECAUSE  
22 I'VE CAUSED THAT AMOUNT OF GUILT, BUT I KNOW THEY LOVE ME  
23 UNCONDITIONALLY, SO THEY WILL KEEP ME IN THAT HOUSE. I HAVE  
24 GONE THROUGH SO MUCH AND I'VE GROWN UP. I PRACTICALLY LOST MY  
25 CHILDHOOD AND LOST MY INNOCENCE.

1           THE AMOUNT OF STRAIN IT'S PUT US IN OUR FAMILY, THE  
2           AMOUNT OF FEAR MY SISTER HAS, MY LITTLE AND MY BIGGER SISTER.  
3           MY BIG SISTER HAS A GREAT AMOUNT OF GUILT, TOO. I DON'T KNOW  
4           WHY, BUT SHE FEELS THAT SHE COULD HAVE DONE MORE. AND SHE IS  
5           VERY, VERY DISTRAUGHT THAT SHE COULD NOT APPEAR IN COURT TODAY  
6           BECAUSE HER SCHEDULE WITH HER WORK AND EVERYTHING LIKE THAT  
7           BECAUSE THE COURT HAS A VERY -- IT'S VERY FLEXIBLE, AND IT'S  
8           VERY HARD ON OUR SCHEDULES.

9           LIKE RIGHT NOW, I AM MISSING SCHOOL. I'VE MISSED SO  
10          MUCH SCHOOL, AND I'VE BEEN PULLED OUT OF SCHOOL BECAUSE OF THE  
11          AMOUNT OF DISTRAUGHT I'VE FELT. I'VE BROKEN DOWN MANY, MANY  
12          TIMES AT SCHOOL, AND I COULD NOT SEE -- I CANNOT SHOW ANYONE  
13          HOW WEAK I FEEL. I TRY TO STAY STRONG. I AM NOW CURRENTLY IN  
14          A JUNIOR ROTC PROGRAM.

15          I'VE GROWN UP AS A PERSON. I'VE GROWN VERY MUCH  
16          SKILLS. I'VE MATURED SO MUCH AS I WAS BEFORE. I PLAY NO VIDEO  
17          GAMES. THERE'S NO CONSOLES IN OUR HOUSE AT ALL BECAUSE EVEN IF  
18          WE GOT A CONSOLE, I WOULDN'T WANT IT. I WOULDN'T WANT IT IN  
19          OUR HOUSEHOLD BECAUSE I WOULD THAT INTENSE FEAR OF THAT  
20          POSSIBLY HAPPENING TO ANYBODY ELSE.

21          I AM VERY PROTECTIVE OF MY SISTER BECAUSE I HAVE A FEAR  
22          SOMETHING'S GOING TO HAPPEN WITH HER, AND I HAVE THE GREAT FEAR  
23          THAT IT'S GOING TO AFFECT ME LATER ON IN LIFE BECAUSE IT'S  
24          AFFECTED ME SO MUCH IN THE LAST 30 MONTHS.

25          I CAUSED MY ENTIRE FAMILY GREAT STRESS, AND I GREATLY

1 APOLOGIZE TO MY FAMILY. I APOLOGIZE FOR TAKING YOUR GUYS' TIME  
2 TO DEAL WITH THIS BECAUSE THIS SHOULDN'T HAVE HAPPENED. THIS  
3 WAS A BIG MISTAKE ON MY END. I SHOULDN'T HAVE LEFT -- LET IN A  
4 HORRIBLE PERSON INTO MY LIFE. I WILL NO LONGER LET ANY ADULTS  
5 REALLY TALK TO ME. I DON'T REALLY LIKE ANYONE TALKING TO ME AT  
6 ALL. I USED TO BE A VERY SOCIAL PERSON. I'M NOT AS SOCIAL AS  
7 I WAS BEFORE.

8 I GIVE GREAT GRATITUDE TO DAVID AND CHARLOTTE KAISER  
9 BECAUSE THEY HAVE BEEN HERE FOR -- THEY HAVE BEEN HERE THIS  
10 WHOLE TIME, AND THEY HAVE COMFORT ME AND EVERYTHING. THEIR  
11 APPROACH WAS VERY, VERY GOOD TOWARDS ME TO OPEN UP. I'VE  
12 EARNED THEIR TRUST, AND I KNOW THEY WON'T TURN THEIR BACKS ON  
13 ME. I KNOW LATER IN LIFE IF I EVER NEEDED TO TALK TO THEM, I  
14 COULD TALK TO THEM BECAUSE I KNOW THEY WOULD LET ME IN.

15 AS I SEE MY FAMILY TODAY, WE'RE ALL HERE EXCEPT SOME OF  
16 US BECAUSE WORK AND EVERYTHING LIKE THAT. I'M VERY GRATEFUL  
17 THAT MY FAMILY IS HERE, AND THEY ALWAYS WILL BE.

18 TO SEE TONY'S FAMILY, HOW THEY STILL HAVE HIS BACK,  
19 IT'S VERY DISAPPOINTING BECAUSE WHY WOULD THEY STILL BACK UP  
20 SOMEONE THAT DID THIS TO A CHILD, HAD SEXUAL INTENTIONS WITH  
21 TWO MINORS OF THE SAME FAMILY? THE FACT THAT THEY SAID THAT AT  
22 LEAST 28 PERCENT OF TEENAGERS SEND SEXUAL TEXTS, THEY DO  
23 BECAUSE THIS IS WHERE KIDS GROW UP AND THEY FEEL THEY'RE OLD  
24 ENOUGH TO FULFILL THEIR NEEDS.

25 I HAVE NO INTEREST IN ANYONE. I WILL NOT HAVE ANY

1 INTEREST IN ANYONE FOR A LONG TIME BECAUSE I HAVE VERY BIG  
2 TRUST ISSUES WITH ANYONE. I RARELY LET ANYONE IN. I HAVE  
3 BUILT UP FEELINGS FOR A VERY, VERY LONG TIME. AND THE FEAR OF  
4 THIS MIGHT HAPPEN TO ME AGAIN WHEN I'M OUT, I HAVE -- I WILL  
5 CONSTANTLY LOOK OVER MY SHOULDER. IF I LISTEN TO MUSIC, I DO  
6 NOT LISTEN WITH HEADPHONES IN BECAUSE I HAVE THE FEAR THAT  
7 SOMEONE MIGHT BE BEHIND ME.

8 I USUALLY DON'T WALK HOME. I USUALLY GET RIDES HOME  
9 BECAUSE I DON'T LIKE BEING ALONE. I CAN'T STAND BEING ALONE.  
10 IT HURTS. I'M GLAD THAT I HAVE MY FRIENDS NOW BECAUSE I KNOW  
11 THEY CARE ABOUT ME, AND I KNOW THEY ALWAYS WILL BECAUSE THEY'VE  
12 SEEN HOW BAD THIS COURT HAS AFFECTED ME.

13 I HAVE THE FEAR OF REALLY TELLING WHAT HAPPENED BECAUSE  
14 THE FEAR OF SOMEONE THINKING OF ME BADLY IS VERY SUBSTANTIAL IN  
15 MY LIFE, THE FEAR OF SOMEONE THINKING BAD OF ME SUCH AS I HAD  
16 -- IN ROTC I HAD TO TALK TO MY COMMANDER ABOUT WHAT'S BEEN  
17 GOING ON BECAUSE LATELY I'VE BEEN MISSING DRILL PRACTICE. I  
18 WAS ON DRILL TEAM, BUT I'M NOT ANYMORE BECAUSE I'M MISSING SO  
19 MUCH BECAUSE OF THE AMOUNT OF STRESS THAT'S BUILT ON ME. I  
20 TALKED TO HIM ABOUT IT, AND HE'S BEEN VERY, VERY GOOD ABOUT IT.  
21 HE'S BEEN VERY UNDERSTANDING.

22 THIS IS AFFECTING MY LIFE VERY, VERY GREATLY, AND I  
23 WOULD LIKE HIM TO HAVE THE MOST MAXIMUM SENTENCE HE COULD AND  
24 THE SUPERVISION TO BE ON THE TOP.

25 I WOULD FEEL SAFE IF HE DID NOT HAVE ANY TECHNOLOGY

1        THAT HAS BEEN CONNECTED TO THE INTERNET, AND NO CONTACT REALLY  
2        TO THE OUTSIDE WORLD NEAR ANY CHILDREN BECAUSE I HAVE THE FEAR  
3        HE'S GOING TO DO IT AGAIN BECAUSE -- IF STUDIES SHOW THAT HE IS  
4        NOT INTERESTED IN CHILDREN, THEN WHY DID HE GO AFTER ME AND MY  
5        COUSIN? WE WERE UNDERAGE. WE'RE STILL UNDERAGE, AND THIS  
6        STILL AFFECTS OUR LIFE VERY, VERY GREATLY.

7                AND THE FACT THAT HE DID HAVE A BAD CHILDHOOD WOULDN'T  
8        HE WANT TO TURN IT AROUND AND NOT DO IT TO ANYONE ELSE? SINCE  
9        THIS HAPPENED TO ME, I WILL NOT LET THIS AFFECT ME LATER IN  
10       LIFE BECAUSE I DON'T WANT ANYONE TO HAVE THAT HAPPEN TO THEM  
11       EVER AGAIN.

12               I HAVE VERY, VERY -- I'M VERY, VERY CARING FOR THE  
13       PEOPLE THAT ARE ABUSED, AND I WOULD SAY I WASN'T ABUSED, BUT I  
14       WAS VERY -- I TOOK EVERYTHING DRASTIC WHEN I WAS LITTLE -- OR  
15       YOUNGER, AND NOW I SEE THE TRUTH. I'VE LOST MY CHILDHOOD. I  
16       WAS FORCED TO MATURE VERY, VERY QUICKLY, AND IT'S BEEN HARD ON  
17       ME.

18               I DO NOT ENJOY VIDEO GAMES. I FEEL LIKE I WOULD NEVER  
19       ENJOY VIDEO GAMES EVER AGAIN JUST TO KNOW THAT THAT COULD HAVE  
20       POSSIBLY HAPPENED. AND TO SEE THAT OTHER PEOPLE HAVE SYSTEMS,  
21       I PARTICULARLY DON'T -- RATHER HAVE THEM NOT IN THE HOUSEHOLD  
22       UNLESS THEY'RE VERY, VERY CLOSELY MONITORED, SUCH AS NO  
23       MICROPHONE, NO COMMUNICATION ON THE SYSTEMS, JUST PLAY ONLINE  
24       WITH NO COMMUNICATIONS WHATSOEVER WOULD MAKE ME FEEL A LOT  
25       BETTER.

1           TODAY I WOULD SAY I FEEL -- I'VE GROWN FROM THIS. I'VE  
2           LEARNED WHAT TO LOOK OUT FOR, AND LATER IN LIFE I WANT TO HELP  
3           PEOPLE THAT THIS HAPPENED TO BEFORE. ONE OF MY GREAT PASSIONS  
4           IS TO FIND THE BEAUTY IN LIFE, SUCH AS PHOTOGRAPHY. THAT'S ONE  
5           OF THE CAREERS I WANT TO GET INTO, AND I WANT TO SHOW THE WORLD  
6           IN ITS BEAUTY. AND I KNOW THE WORLD IS VERY MESSED UP PLACE,  
7           AND IT MIGHT AFFECT EVERYONE GREATLY, BUT IT'S -- BUT IT HELPS  
8           TO MOVE ON.

9           I HAVE TRIED TO NOT THINK OF THIS AS MUCH AS I COULD.  
10          THIS HAS AFFECTED MY RELATIONSHIP WITH EVERYONE. THIS HAS --  
11          WHEN I GO TO MY STEPFATHER'S PARENTS' HOUSE, I CAN'T REALLY  
12          LOOK AT THEM THE SAME BECAUSE THE FACT -- THE AMOUNT OF PAIN  
13          I'VE MADE THEM GO THROUGH, THE AMOUNT OF GUILT I HAVE FOR THEM.  
14          WHENEVER I GO OVER TO THEIR HOUSE, I REALLY DON'T TALK BECAUSE  
15          I FEEL A GREAT AMOUNT OF GUILT, AND I KNOW THEY FEEL A GREAT  
16          AMOUNT OF GUILT AND A LOT OF PAIN BECAUSE OF THE FEAR THT THEY  
17          HAVE IN -- THE FEAR THEY ALWAYS WILL HAVE, AND I AM GREATLY  
18          SORRY FOR HIS PARENTS AND WHAT I DID TO THEM.

19          AND I'M GREATLY SORRY FOR WHAT TONY DID TO MY ENTIRE  
20          FAMILY. HE HAS AFFECTED MY ENTIRE FAMILY GREATLY. TO SEE MY  
21          MOM IN THE AMOUNT OF STRESS SHE'S BEEN FOR A LONG TIME, I WOULD  
22          LIKE TO ASK FOR THE MAXIMUM AMOUNT OF SENTENCE AND THE MAXIMUM  
23          AMOUNT OF SUPERVISION. THAT WILL BE ALL. THANK YOU, YOUR  
24          HONOR.

25          THE COURT: THANK YOU VERY MUCH, JOHNATHAN.

1 MS. KAISER, IS THAT EVERYBODY WHO WOULD LIKE TO ADDRESS  
2 THE COURT?

3 MS. KAISER: THAT'S IT, YOUR HONOR.

4 THE COURT: PLEASE GO AHEAD, MS. KAISER.

5 MS. KAISER: IF THERE'S ANY QUESTION ABOUT HARM AND  
6 THIS INVOLVING TEENAGERS, I THINK WHAT THE COURT HAS JUST HEARD  
7 FROM JOHNATHAN AND MAX AND THEIR FAMILIES IS DEMONSTRATIVE.  
8 YOU CAN'T MEASURE THE HARM. YOU CAN'T QUANTIFY IT. NO MATTER  
9 WHAT SENTENCE YOUR HONOR BRINGS DOWN, IT'S NOT GOING TO TAKE  
10 AWAY FROM THIS, AND I DON'T THINK IT'S EVERY DAY THAT YOUR  
11 HONOR HEARS FROM THESE KIDS, AND THEY'RE STILL KIDS, YOUR  
12 HONOR, THEY'RE JUNIORS IN HIGH SCHOOL, AND ESPECIALLY HEARING  
13 FROM JOHNATHAN, WHERE HE'S APOLOGIZING, AND HE TALKS ABOUT THE  
14 GUILT THAT HE FEELS.

15 WE'VE MET WITH THESE KIDS SEVERAL TIMES, AND NO DOUBT  
16 AT SOME POINT THERE WAS A BAD JUDGMENT CALL, BUT IT IS  
17 SOMETHING THAT GREW FAR WORSE INTO NOT JUST EVERY PARENTS'  
18 NIGHTMARE, BUT THE COMMUNITY'S, SOCIETY'S NIGHTMARE BECAUSE FOR  
19 ABOUT 16 HOURS JOHNATHAN AGUIRRE CEASED TO EXIST. HE  
20 DISAPPEARED. HE WAS JUST IN THE CLOUD. AND AS HIS MOTHER  
21 TALKED ABOUT, AS NEIL TALKED ABOUT, MAX'S DAD, JOHNATHAN'S  
22 UNCLE, AND AS LUIS, JOHNATHAN'S STEPFATHER TALKED ABOUT, THERE  
23 WAS A WHOLE BUNCH OF "WHAT IF'S," WHAT IF THEY WERE SUCCESSFUL?  
24 WHAT IF THERE WASN'T A DETECTIVE, LIKE DETECTIVE JACKSON, WHO  
25 WORKED TIRELESSLY WITHOUT ANY TYPE OF SLEEP TRYING TO TRACK

1 EVERY STEP, AND TRACK DOWN, AND HONE IN TO TRY TO LOCATE  
2 JOHNATHAN, AND FIGURE OUT ABOUT THE DELTA FLIGHT AND MATCHING  
3 THE DATES.

4 THE BOTTOM LINE IS THAT TONY WAS AND IS AN ADULT, AND  
5 DURING THOSE CONTACTS WITH THOSE KIDS HE WAS THE ADULT IN THE  
6 ROOM. AND DESPITE A DIFFICULT CHILDHOOD, HE HAD SO MANY  
7 OPPORTUNITIES TO SUCCEED, AND SO MUCH LOVE, AND THAT'S WHAT  
8 MAKES THIS ALL THE MORE SADDER BECAUSE HE NOT ONLY MANIPULATED  
9 THESE CHILDREN AND AFFECTED THEIR FAMILIES, BUT LOOK AT WHAT  
10 HE'S DONE TO HIS FAMILY AS WELL.

11 HE WASN'T A TEACHER, BUT HE WAS SOMEONE WHO HAD  
12 RECENTLY GRADUATED FROM THE POLICE ACADEMY. HE WAS STUDYING TO  
13 BE IN LAW ENFORCEMENT, SOMEONE WHO HAD TAKEN THE STEPS TO BE  
14 PART OF THE COMMUNITY, THE SOCIETY, SOMEONE TO PROTECT. THAT  
15 WAS THE CAREER PATH HE WAS GOING ON, AND YET AT THE SAME TIME  
16 HE IS LIKE THOSE OTHER CASES WE HAVE SEEN WHERE THERE'S A  
17 TEACHER TRADING IN CHILD PORNOGRAPHY, OR EVEN A PEDIATRIC NURSE  
18 ABUSING CHILDREN. THIS IS THE CAREER PATH TONY WAS CHOOSING.

19 AT A TIME WHEN THESE KIDS WERE TRYING TO LEARN AND  
20 UNDERSTAND ABOUT THEMSELVES, THEIR OWN SEXUALITY, AND IT'S  
21 DIFFERENT TIMES, THIS IS HOW KIDS COMMUNICATE. HE EXPLOITED  
22 THAT. AND SO IN THAT EFFECT THERE'S NOTHING BENIGN ABOUT THIS  
23 CASE. IT'S NO LESS SIGNIFICANT THAN OTHER CASES, AND THE OTHER  
24 CASES THAT DEFENDANT POINTS TO THE MAJORITY OF THEM WERE A  
25 RESULT OF PLEA AGREEMENTS, AND EVEN IN THE WYLY CASE THE VICTIM

1 DIDN'T HAVE TO TESTIFY. IN OUR CASE THE VICTIMS HAD TO TESTIFY  
2 AND SIT THROUGH FOR AT LEAST HALF A DAY, EACH WITH A BARRAGE OF  
3 QUESTIONS, AND VERY VIGOROUS QUESTIONS ABOUT THEIR VERACITY.

4 IN THAT REGARD, YOUR HONOR, JUST ONE LIMITED ISSUE I  
5 WANT TO TOUCH BASE ON, DEFENSE COUNSEL POINTED OUT THE ISSUE  
6 ABOUT THE SEXUAL CONDUCT INCIDENT, IT'S TRUE THAT THE JURY  
7 DIDN'T MAKE ANY FINDINGS, BUT OBVIOUSLY WHEN YOUR HONOR MAKES  
8 THE CALCULATIONS, WE WOULD JUST ASK YOUR HONOR TO INDICATE THE  
9 FINDINGS BY A PREPONDERANCE OF THE EVIDENCE.

10 TONY MCLEOD HAS DEMONSTRATED HE'S A MASTER MANIPULATOR.  
11 HE IS A DANGER TO SOCIETY. WHILE A LIFETIME OF SUPERVISION  
12 CERTAINLY WILL ASSIST TO FURTHER CONTROL HIS ACTIONS, THERE  
13 NEEDS TO BE RESPECT FOR THE LAW AND PUNISHMENT. THIS WAS NOT  
14 AS SIMPLE AS AN ADULT TRADING IN IMAGES WITH A COUPLE OF  
15 TEENAGERS. THIS WAS AN ADULT WHO INGRAINED HIMSELF IN THE  
16 LIVES OF TWO MIDDLE SCHOOLERS, EXPLOITED THOSE MIDDLE  
17 SCHOOLERS' RELATIONSHIP AS COUSINS, LEARNED ALL HE COULD ABOUT  
18 THEM.

19 HE FURTHER AT THAT POINT INTENSIFIED THE TENSION THAT  
20 THESE CHILDREN HAD WITH THEIR FAMILY ALREADY. THIS IDEA, AS  
21 MS. MORGAN TALKED, ABOUT HOW TEENAGERS FEEL, HE EXPLOITED THAT  
22 FURTHER AND DROVE INTO THAT WITH THE IDEA OF MAX'S MOVE WITH  
23 HIS PARENTS, AND WITH JOHNATHAN'S OWN FEELINGS OF LONELINESS,  
24 IN HIS OWN TERMS, COMING TO TERMS WITH HIS OWN SEXUALITY, AND  
25 HIS RELATIONSHIP WITH HIS MOTHER, AND THEN HE TOOK IT FURTHER

1 BY COMING OUT, AND TAKING JOHNATHAN AWAY FROM HIS FAMILY.

2 YOUR HONOR, WE OUTLINED ALL THE PROPOSED SENTENCES, BUT  
3 IN THE END OUR OVERARCHING RECOMMENDATION IS A LITTLE OVER  
4 33 YEARS. IT MAY SEEM LIKE A SIGNIFICANT AMOUNT OF TIME, AND  
5 CERTAINLY COMPARED TO THE DRUG CASES WE SEE, THE ILLEGAL ENTRY  
6 CASES, THE ALIEN SMUGGLING, IT'S NOT FOR WHAT HE DID, AND  
7 LOOKING AT THE WHOLE HISTORY OF THIS INDIVIDUAL, AND HOW HE  
8 PREYS, AND HOW HE MANIPULATES, SO TO THAT END WE WOULD SUBMIT  
9 ON THAT RECOMMENDATION, AND WE THANK YOU FOR IT.

10 THE COURT: THANK YOU, MS. KAISER.

11 FROM PROBATION.

12 THE PROBATION OFFICER: YES, YOUR HONOR, JILL POGUE  
13 FROM PROBATION.

14 I THINK THERE'S THREE ISSUES THAT NEEDED TO BE  
15 ADDRESSED, THE PSR, GOING TO THE BOP, THE ADDENDUM IS ALSO  
16 ATTACHED, AND THEREFORE WE OUTLINE ALL THE OBJECTIONS FROM  
17 DEFENSE AND HOW WE RESPONDED.

18 AS FAR AS THINGS THAT -- I MADE STATEMENTS THAT THEY  
19 WERE STATED, THERE WAS VOLUMES OF DISCOVERY. WHEN WE OUTLINE  
20 DISCOVERY, IT IS THOSE PERTINENT TO THE CHARGES AND CONVICTIONS  
21 WITHIN THE PROCESS, SO OBVIOUSLY WE DIDN'T WRITE ALL OF THE  
22 DISCOVERY MATERIAL.

23 ALSO, REGARDING THE BOP ASSESSMENT, THEY DO THEIR OWN  
24 ASSESSMENT. THEY DON'T JUST SOLELY TAKE INTO CONSIDERATION THE  
25 PSR WHEN THEY PROVIDE SERVICES TO INDIVIDUALS. HE'LL BE ABLE

1 TO REQUEST WHAT SERVICES HE WOULD WANT, AND THEY WILL ASSESS  
2 THAT ON THEIR OWN TERMS.

3 WITH REGARDS TO THE FIREARM, IT WAS INCLUDED IN THE  
4 OFFENSE CONDUCT BECAUSE IT'S A FACT. IT WAS THERE. WE DID NOT  
5 ADDRESS IT IN ANY KIND OF GUIDELINE ENHANCEMENT, AND WE ALSO  
6 ADDRESSED OUR ASSESSMENT OF THE GUN FURTHER INTO THE REPORT.

7 I BELIEVE THAT WAS THE THREE CONCERNS THAT WERE  
8 ADDRESSED.

9 THE COURT: NO, I BELIEVE YOU ADDRESSED THEM.

10 THE PROBATION OFFICER: NOTHING FURTHER.

11 THE COURT: THANK YOU VERY MUCH.

12 DID YOU HAVE SOMETHING YOU WISH TO SAY? BECAUSE IF YOU  
13 DO IT MUST BE LIMITED, IT MUST BE LIMITED TO ONE OR TWO  
14 MINUTES, MA'AM, BECAUSE WE DO NEED TO FINISH THIS THIS MORNING  
15 BECAUSE SO MANY PEOPLE ARE MISSING WORK AND SCHOOL TO BE HERE.

16 MS. MORGAN: NO, YOUR HONOR.

17 (DISCUSSION HELD OFF THE RECORD.)

18 MS. MORGAN: I GUESS -- NO, YOUR HONOR, I'M FINE.

19 THE COURT: IF YOU AND MR. MCLEOD WOULD LIKE TO TAKE  
20 THE PODIUM.

21 MS. MORGAN: THE ONLY STATEMENT I WOULD LIKE TO MAKE IS  
22 I DO REALIZE THAT THE BOP DOES MAKE THEIR OWN ASSESSMENT, BUT  
23 IT IS TRUE WHEN A GUN APPEARS IN AN OFFENSE CONDUCT SECTION,  
24 MR. MCLEOD DOESN'T GET TO EXPLAIN IT AND IT DOESN'T GO AWAY.

25 THE COURT: WELL, NO, I UNDERSTAND THAT.

1           IT GOES WITHOUT SAYING THAT I'VE SPENT MORE HOURS THAN  
2           ANYBODY IN THIS COURTROOM COULD IMAGINE THINKING ABOUT THIS  
3           CASE, BUT I WOULD IMAGINE FOR THOSE OF YOU ON BOTH SIDES OF  
4           THIS CASE YOU HAVE DONE SIMILAR THINGS, AND I APPRECIATE  
5           EVERYBODY'S COMMENTS THAT IT'S NOT OVER. IT MAY NEVER BE OVER.  
6           THESE THINGS WILL STAY WITH YOU, AND THAT'S JUST THE REALITY OF  
7           THINGS.

8           LET ME START BY TALKING ABOUT THE OBJECTIONS. I  
9           STARTED AT THE OUTSET THIS MORNING WITH TELLING YOU MY FEELINGS  
10          ON THE OBJECTIONS. THAT PRELIMINARY STATEMENT NOW BECOMES THE  
11          COURT'S FINAL POSITION. I'M NOT GOING TO REQUEST THAT ANYTHING  
12          BE CHANGED IN THE PRESENTENCE REPORT. IN FACT, THE GUN WAS IN  
13          THE VEHICLE. THAT WAS A FACT, AND I THINK THAT NEEDS TO STAY  
14          IN THERE.

15          WHAT OCCURRED AT MCC I THINK NEEDS TO STAY IN THERE FOR  
16          A VARIETY OF REASONS, NOT THE LEAST OF WHICH IS THAT THE BUREAU  
17          OF THE PRISONS CONSIDERS SAFETY OF MR. MCLEOD IN PLACEMENT AND  
18          IN HOUSING.

19          WITH REGARD TO -- I'VE ALREADY STATED THE CONDITIONS ON  
20          SUPERVISED RELEASE, AND, IN FACT, THE DEFENSE IS THAT THAT  
21          COVERS MOST OF THEIR CONCERNS. I WILL GIVE ALL THE CONDITIONS  
22          I'VE INDICATED, AND I WILL GO THROUGH THOSE INDIVIDUALLY WITH  
23          YOU, MR. MCLEOD. I WILL GIVE THOSE OVER OBJECTION OF THE  
24          DEFENSE. I THINK THEY ARE RELATED. I THINK THEY ARE  
25          IMPORTANT, AND APPROPRIATELY INCLUDED IN A PERIOD OF SUPERVISED

1           RELEASE.

2                   I HAVE MADE THE GUIDELINE CALCULATION. I WENT THROUGH  
3           GROUPS 1 THROUGH 8, GROUP 9, GROUP 10, AND INDICATING WHAT THAT  
4           WAS. I'VE ALSO MADE THE ALTERNATIVE GUIDELINE CALCULATION IN  
5           THIS MATTER PRELIMINARILY AT THE FRONT END. THOSE NOW BECOME  
6           THE COURT'S CALCULATION IN THIS MATTER.

7                   I WOULD SAY -- WELL, LET ME KEEP GOING HERE.  
8           RESTITUTION WILL BE PUT OVER.

9                   WITH REGARD TO THE SEXUAL CONDUCT ENHANCEMENT, I DO  
10          FIND THAT THAT IS APPROPRIATELY APPLIED, AND I FIND THAT BY A  
11          PREPONDERANCE OF THE EVIDENCE.

12                   IN HAVING MADE BOTH GUIDELINE CALCULATIONS, I WOULD  
13          INDICATE THAT THE APPROPRIATE SENTENCE IN THIS COURT'S MIND  
14          LIES WITHIN THE SENTENCING RANGES THAT RESULT IN OVERLAP IN  
15          THESE TWO CALCULATIONS. NOW, I KNOW THAT'S NOT BINDING ON THIS  
16          COURT, BUT IT'S SOMETHING THAT CAME OUT TO THE COURT IN LOOKING  
17          AT THIS.

18                   I HAVE SO MANY THINGS THAT I CONSIDERED, AND I'M  
19          TALKING TO THOSE OF YOU WHO ARE HERE IN ATTENDANCE, COUNSEL  
20          KNOWS THIS, MR. MCLEOD KNOWS THIS FROM LENGTHY CONVERSATIONS  
21          I'M CERTAIN WITH HIS COUNSEL, BUT THAT I'M LOOKING FOR A  
22          SENTENCE THAT'S SUFFICIENT BUT NOT GREATER THEN WHAT'S  
23          NECESSARY. AND IN A CASE LIKE THIS WHERE LIVES ARE IMPACTED  
24          IRREPARABLY ON BOTH SIDES, BUT I'M THINKING MORE FROM THE  
25          VICTIMS' SIDE AT THIS JUNCTURE, OF COURSE, IT'S HARD TO SAY,

1 WELL, HOW COULD ANYTHING BE TOO GREAT? NONETHELESS, I HAVE TO  
2 CONSIDER ALL THE REQUIREMENTS THAT THE LAW PLACES UPON ME.

3 A LOT OF THINGS HAVE BEEN SAID THIS MORNING, AND ONE  
4 THING THAT WAS SAID WAS THAT THIS WAS AN ONLINE GAMING  
5 RELATIONSHIP. WELL, THIS WAS SO MUCH MORE THAN THAT. THIS WAS  
6 SOMETHING THAT BEGAN IN THAT FASHION, BUT THEN THERE WAS AN  
7 OPPORTUNITY TAKEN BY MR. MCLEOD TO LEARN OF VULNERABILITIES, TO  
8 PRY INTO LIVES AND TO TAKE ADVANTAGE AND EXPLOIT, IF YOU WILL,  
9 THE WEAKNESSES THERE.

10 WE CAN'T REPLAY THIS CASE. WE ALL HEARD IT. EVERYBODY  
11 IN THIS COURTROOM TOOK PART IN THOSE PROCEEDINGS, AND IT WAS  
12 BASICALLY A TWO-WEEK TRIAL, SO IT WILL REMAIN FOREVER VIVID IN  
13 MOST OF OUR MEMORIES AS TO WHAT OCCURRED, AND THE EXCHANGES  
14 THAT TOOK PLACE, BUT THESE TWO VICTIMS WERE UNDERAGE. THEY  
15 WERE NOT ABLE TO CONSENT TO WHAT OCCURRED HERE, AND MR. MCLEOD  
16 HAD EVERY OPPORTUNITY, AS THE COURT VIEWS THIS, TO MAKE A  
17 BETTER DECISION.

18 IT WAS INTERESTING TODAY FOR ME TO HEAR JOHNATHAN  
19 INDICATE THAT DESPITE WHAT'S HAPPENED TO HIM, HE DOES NOT WISH  
20 TO PERPETRATE THIS TO ANOTHER GENERATION. HE WOULD LIKE TO  
21 WORK QUITE THE CONTRARY, TO HELPING PEOPLE.

22 WHILE I'M UNDERSTANDING OF THE UPBRINGING AND  
23 EXPERIENCES YOU'VE HAD, MR. MCLEOD, I DON'T THINK THAT'S AN  
24 EXCUSE OR IN ANY WAY EXPLAINS AWAY THIS CONDUCT BECAUSE QUITE  
25 THE CONTRARY COULD OCCUR, YOU COULD SAY, "I NEVER WANT ANYBODY

1 ELSE TO EXPERIENCE THIS," AND NOT PREY UPON THE YOUNG PEOPLE  
2 THAT YOU PREYED UPON, SIR, TO BE QUITE HONEST.

3 SO LET ME INDICATE THAT IF I'M INCLUDING THE  
4 OVERLAPPING RANGES OF THE FIRST CALCULATION I MADE WITH THE  
5 SECOND CALCULATION, I END UP WITH A GUIDELINE RANGE OF  
6 324 MONTHS TO 327 MONTHS, AND THAT'S WHERE I AM AT THIS  
7 JUNCTURE.

8 I ALSO HAVE TO LOOK AT THE 3553(A) FACTORS, AND FOR  
9 THOSE OF YOU WHO ARE LISTENING AND OBSERVING TODAY, THAT'S THE  
10 NATURE AND CIRCUMSTANCES OF THE OFFENSE. IT'S THE  
11 CHARACTERISTICS THAT MR. MCLEOD BRINGS BEFORE THE COURT. IT'S  
12 THE SERIOUSNESS OF THIS OFFENSE. IT'S THE NEED TO PROMOTE  
13 RESPECT FOR THE LAW. IT'S THE NEED TO DETER SPECIFICALLY WITH  
14 REGARD TO MR. MCLEOD AND GENERALLY WITH REGARD TO OTHERS WHO  
15 ARE OBSERVERS OF OUR CRIMINAL JUSTICE SYSTEM. THERE'S ALSO A  
16 NEED TO AVOID SENTENCING DISPARITIES.

17 IN LOOKING AT ALL OF THOSE, ASSUMING I'M AT THE  
18 OVERLAPPING GUIDELINE RANGE OF 324 TO 327, WHICH IS A SMALL  
19 RANGE THAT THESE TWO CALCULATIONS OVERLAP, I AM INCLINED TO  
20 NEITHER VARY DOWNWARD NOR VARY UPWARD IN THIS. I DO BELIEVE  
21 THAT THAT RANGE IS SUFFICIENT BUT NOT GREATER THAN WHAT IS  
22 NECESSARY GIVEN THE RATHER HORRENDOUS FACTS OF THIS CASE.

23 MR. MCLEOD HAD MANY HOURS SITTING ON AN AIRPLANE,  
24 COMING OUT TO CALIFORNIA, TO GET A HANDLE ON THE DECISIONS HE  
25 WAS MAKING BEFORE HE PICKED UP JOHNATHAN AND TURNED AROUND AND

1 LEFT, SO OPPORTUNITY BY WAY OF TIME AND OTHER FACTORS WERE  
2 PROVIDED TO HIM, AND IT DIDN'T OCCUR.

3 SO I'M GOING TO IMPOSE 324 MONTHS IN THE CUSTODY OF THE  
4 BUREAU OF THE PRISONS. THAT'S GOING TO BE ON -- HAVING GROUPED  
5 THIS AND DONE THE CALCULATIONS I HAVE, I THINK I JUST IMPOSE  
6 THAT ONCE, ALTHOUGH SOME OF YOU, AND I'M LOOKING TO COUNSEL  
7 THAT HAVE EXPRESSED IT DIFFERENTLY, I THINK THAT'S THE CORRECT  
8 WAY TO GO.

9 NOW, MR. MCLEOD, AFTER YOU'RE RELEASED FROM CUSTODY,  
10 SIR, I DO BELIEVE A PERIOD OF SUPERVISION IS REQUIRED. GIVEN  
11 THE NATURE OF THIS CASE, AND ALL THE FACTS THAT SURROUND IT,  
12 SIR, AND EVERYTHING THAT I KNOW, I'M GOING TO IMPOSE A PERIOD  
13 OF SUPERVISION THAT WILL BE FOR THE REST OF YOUR LIFE, SIR. I  
14 THINK THAT WILL PROVIDE THE STRUCTURE THAT WILL BE NECESSARY  
15 FOR YOU TO BE LAW-ABIDING IN ALL RESPECTS WHEN YOU ARE RELEASED  
16 FROM CUSTODY.

17 DURING THAT PERIOD OF SUPERVISION, MR. MCLEOD, YOU'RE  
18 NOT TO VIOLATE ANY LAWS. YOU MUST BE LAW-ABIDING IN ALL  
19 RESPECTS OR YOU COULD BE BROUGHT BACK BEFORE THE COURT AND YOU  
20 COULD SERVE ADDITIONAL TIME IN CUSTODY.

21 THE FOLLOWING SPECIAL CONDITIONS APPLY, AND I'M GOING  
22 THROUGH -- IF YOU HAVE IT HANDY FOR YOUR REFERENCE AND MR.  
23 MCLEOD'S REFERENCE, I'M GOING THROUGH THE PRESENTENCE REPORT  
24 CONDITIONS THAT I'VE MODIFIED STARTING ON PAGE 32.

25 THE FIRST IS THAT YOU SUBMIT YOUR PERSON, YOUR

1           PROPERTY, YOUR HOUSE, YOUR RESIDENCE, YOUR VEHICLE, YOUR  
2           PAPERS, YOUR COMPUTER, ELECTRONIC COMMUNICATIONS OR DATA  
3           STORAGE MEDIA AND EFFECTS TO A SEARCH AT ANY TIME WITH OR  
4           WITHOUT A WARRANT BY ANY LAW ENFORCEMENT OR PROBATION OFFICER  
5           WITH REASONABLE SUSPICION CONCERNING A VIOLATION OF A CONDITION  
6           OF YOUR SUPERVISED RELEASE OR UNLAWFUL CONDUCT, AND OTHERWISE  
7           IN THE LAWFUL DISCHARGE OF THE OFFICER'S DUTIES. THIS IS  
8           PURSUANT TO 18 USC SECTIONS 3563(B)(23) AND 3583(D)(3).

9           SECOND CONDITION, CONSENT TO THIRD-PARTY DISCLOSURE TO  
10          ANY EMPLOYER, POTENTIAL EMPLOYER CONCERNING ANY RESTRICTIONS  
11          THAT ARE IMPOSED BY THE COURT.

12          THIRD CONDITION, NOT USE OR POSSESS DEVICES WHICH CAN  
13          COMMUNICATE DATA VIA MODEM OR DEDICATED CONNECTION, AND MAY NOT  
14          HAVE ACCESS TO THE INTERNET WITHOUT PRIOR APPROVAL FROM THE  
15          COURT OR THE PROBATION OFFICER. YOU WILL CONSENT TO THE  
16          INSTALLATION OF SYSTEMS THAT WILL ENABLE PROBATION TO MONITOR  
17          COMPUTER USE ON ANY COMPUTER OWNED OR CONTROLLED BY YOU, AND  
18          YOU WILL PAY FOR THE COST AND INSTALLATION OF THE COMPUTER  
19          SOFTWARE.

20          FOURTH CONDITION, NOT ASSOCIATE WITH OR HAVE ANY  
21          CONTACT WITH ANY SEX OFFENDERS, UNLESS IN AN APPROVED TREATMENT  
22          OR COUNSELING SETTING.

23          FIFTH CONDITION, NOT HAVE CONTACT WITH ANY CHILD UNDER  
24          THE AGE OF 18 UNLESS IN THE PRESENCE OF A SUPERVISING ADULT WHO  
25          IS AWARE OF YOUR DEVIANT SEXUAL BEHAVIOR AND CONVICTION, AND

1 WITH THE PRIOR APPROVAL OF PROBATION.

2 SIXTH CONDITION, NOT ACCEPT OR COMMENCE EMPLOYMENT OR  
3 VOLUNTEER ACTIVITY WITHOUT PRIOR APPROVAL OF THE PROBATION  
4 OFFICER, AND EMPLOYMENT SHOULD BE SUBJECT TO CONTINUOUS REVIEW  
5 AND ASSESSMENT BY THE PROBATION OFFICER.

6 SEVEN, NOT LOITER WITHIN 200 YARDS OF A SCHOOL,  
7 SCHOOLYARD, PLAYGROUND, PARK, AMUSEMENT CENTER OR PARK, PUBLIC  
8 SWIMMING POOL, ARCADE, DAYCARE CENTER, CARNIVAL, RECREATION  
9 VENUE, LIBRARY, AND OTHER PLACES PRIMARILY FREQUENTED BY  
10 PERSONS UNDER THE AGE OF 18 WITHOUT PRIOR APPROVAL OF  
11 PROBATION.

12 EIGHTH CONDITION, NOT POSSESS ANY MATERIALS, SUCH AS  
13 VIDEOS, MAGAZINES, PHOTOGRAPHS, COMPUTER IMAGES, OR OTHER  
14 MATTER THAT DEPICTS SEXUALLY-EXPLICIT CONDUCT INVOLVING  
15 CHILDREN AND/OR ADULTS, AS DEFINED BY 18 USC 2256(2), AND  
16 ACTUAL SEXUALLY-EXPLICIT CONDUCT INVOLVING ADULTS AS DEPICTED  
17 IN 18 USC 2257(H)(1), AND NOT PATRONIZE ANYPLACE WHERE SUCH  
18 MATERIALS OR ENTERTAINMENT ARE THE PRIMARY MATERIAL AVAILABLE.

19 THE NINTH CONDITION IS COMPLETE A SEX OFFENDER  
20 EVALUATION, WHICH MAY INCLUDE PERIODIC PSYCHOLOGICAL AND  
21 PHYSIOLOGICAL TESTING, WITH THE EXCEPTION OF PENILE  
22 PLETHYSMOGRAPHY TESTING AND COMPLETION OF THE ABLE ASSESSMENT  
23 AT THE DIRECTION OF THE COURT OR PROBATION. AND YOU'RE TO  
24 PARTICIPATE AND SUCCESSFULLY COMPLETE A STATE CERTIFIED SEX  
25 OFFENDER TREATMENT PROGRAM, INCLUDING COMPLIANCE WITH TREATMENT

1           REQUIREMENTS OF THE PROGRAM. YOU WILL PERMIT THE RELEASE OF  
2           RECIPROCAL INFORMATION BETWEEN PROBATION AND THE TREATMENT  
3           PROVIDER. YOU MAY BE REQUIRED TO, MR. MCLEOD, TO CONTRIBUTE TO  
4           THE COST OF THESE SERVICES, IF YOU HAVE THE ABILITY TO DO SO.

5           TENTH CONDITION, RESIDE IN A RESIDENCE APPROVED IN  
6           ADVANCE BY PROBATION, AND ANY CHANGES IN RESIDENCE MUST BE  
7           PREAPPROVED BY PROBATION.

8           ELEVENTH CONDITION, BE MONITORED WHILE UNDER  
9           SUPERVISION WITH LOCATION MONITORING TECHNOLOGY AT THE  
10          DISCRETION OF THE PROBATION OFFICER, WHICH SHALL BE UTILIZED  
11          FOR THE PURPOSES OF VERIFYING COMPLIANCE WITH ANY COURT-IMPOSED  
12          CONDITION OF SUPERVISION. AGAIN, MR. MCLEOD, YOU MAY PAY FOR  
13          ALL OR PART OF THIS COST OF MONITORING BASED ON YOUR ABILITY TO  
14          DO SO.

15          TWELFTH CONDITION, NOT HAVE ANY CONTACT, DIRECT OR  
16          INDIRECT, EITHER TELEPHONICALLY, VISUALLY, VERBALLY OR THROUGH  
17          WRITTEN MATERIAL OR THROUGH ANY THIRD-PARTY COMMUNICATION WITH  
18          THE VICTIMS OR VICTIMS' FAMILY IN THIS CASE WITHOUT PRIOR  
19          APPROVAL OF PROBATION.

20          I AM NOT GOING TO IMPOSE A FINE IN THIS CASE. I AM  
21          GOING TO IMPOSE THE \$1,100 PENALTY ASSESSMENT -- OR SPECIAL  
22          ASSESSMENT IN THIS MATTER. THAT CAN BE WORKED OFF, MR. MCLEOD,  
23          WHILE YOU'RE IN CUSTODY.

24          I WILL REQUEST DESIGNATION AS CLOSE TO THE STATE OF  
25          FLORIDA OR IN THE STATE OF FLORIDA, PER THE DEFENDANT'S

1           REQUEST, PROVIDED THAT THERE'S A FACILITY THERE THAT HAS THE  
2           APPROPRIATE PROGRAMS.

3           YOU'VE PROBABLY LOOKED INTO THAT AND THEY DO?

4           MS. MORGAN:   YES, THERE IS, YOUR HONOR.   I USED MY  
5           PHONE.

6           THE COURT:   RESTITUTION HAS YET TO BE DETERMINED, AND  
7           SO WE NEED TO SET A HEARING DATE FOR THAT.

8           BEFORE WE GET TO THAT, I KNOW WE HAVEN'T DONE  
9           RESTITUTION, BUT THERE WAS A TRIAL AND YOU DO HAVE THE RIGHT TO  
10          APPEAL, MR. MCLEOD, FROM THE ORDERS OF THIS COURT, FROM THE  
11          JUDGMENT OF GUILT IN THE CASE, AND FROM THE SENTENCE THAT I  
12          JUST IMPOSED.

13          YOU HAVE THE RIGHT TO HAVE A LAWYER REPRESENT YOU ON  
14          THIS APPEAL, AND IF YOU CANNOT AFFORD A LAWYER, ONE WILL BE  
15          APPOINTED FOR YOU.

16          IF YOU CANNOT AFFORD THE CERTIFIED COPIES OF THE  
17          NECESSARY RECORDS AND TRANSCRIPTS FOR APPEAL, THEY WILL BE  
18          FURNISHED AT THE EXPENSE OF THE UNITED STATES GOVERNMENT.   IF  
19          YOU DO APPEAL, YOU MUST DO SO WITHIN 14 DAYS FROM TODAY.   IF  
20          YOU DON'T APPEAL WITHIN THAT TIME FRAME, MR. MCLEOD, YOU LOSE  
21          YOUR RIGHT TO APPEAL.

22          DO YOU UNDERSTAND THAT, SIR?

23          THE DEFENDANT:   YES, MA'AM.

24          THE COURT:   DO THE PARTIES WANT TO CONFER AND TELL ME A  
25          DATE HOW FAR OUT TO GO FOR A HEARING DATE ON RESTITUTION?   I

1           WON'T SET IT FOR A FULL HEARING.  PERHAPS THERE WILL BE  
2           SOMETHING THAT WILL BE AGREED UPON, I DON'T KNOW.

3           MS. MORGAN:  MS. KAISER INDICATES SHE'S GOING TO NEED  
4           THE FULL 45 DAYS BECAUSE OF THE PRODUCTION OF RECORDS.  MS.  
5           RAMIREZ NEEDS TO GET SOME RECORDS, SO ANY DATE AT THE END OF  
6           FEBRUARY IS FINE WITH ME OR MAYBE THE FIRST WEEK IN MARCH,  
7           WHATEVER THE COURT HAS AVAILABLE.

8           THE COURT:  HOW ABOUT I PUT IT ON A FRIDAY CALENDAR,  
9           SEE WHAT WE'RE DEALING WITH.  IF WE NEED MORE TIME THAN I WOULD  
10          HAVE ON A FRIDAY CALENDAR, LET ME KNOW.

11          MS. MORGAN:  I THINK THAT'S FINE, YOUR HONOR.  I DON'T  
12          EXPECT IT WILL BE A LENGTHY HEARING.

13          THE COURT:  I DON'T DO HEARINGS ON FRIDAY.  SO IF WE  
14          NEED TO SET IT FOR A HEARING, WE COULD MOVE IT FROM THAT  
15          FRIDAY, IF YOU JOINTLY FILE SOMETHING AND LET ME KNOW IN  
16          ADVANCE.

17          MS. KAISER:  YOUR HONOR, THAT FRIDAY IS FINE.  MS.  
18          MORGAN AND I HAVE AN OPEN LINE OF COMMUNICATION, SO IF WE DO  
19          THINK THERE'S GOING TO BE A HEARING NEEDED, WE'LL INFORM MR.  
20          RAMOS.

21          THE COURT:  VERY WELL.  PICK A DATE THE END OF  
22          FEBRUARY, ALEX, IF WE CAN DO IT THEN.

23          THE CLERK:  FEBRUARY 26TH AT 9:00 A.M.

24          MS. MORGAN:  THAT'S FINE.

25          THE COURT:  WHEN WE GROUP THE COUNTS, DO WE STILL

1 IMPOSE CONCURRENTLY ON EVERY COUNT?

2 MS. MORGAN: YES, YOUR HONOR.

3 THE COURT: SO I'M GOING TO RUN THIS CONCURRENT ON ALL  
4 COUNTS. I KNOW THE GOVERNMENT BROKE THEIR SENTENCING DOWN, YOU  
5 DID NOT, PROBATION DID NOT, I DID NOT, BUT ON ALL THE COUNTS  
6 THAT ARE BEFORE THE COURT, I WILL IMPOSE THAT SENTENCE ON EACH  
7 COUNT TO RUN CONCURRENTLY, LIFE SUPERVISION ON ALL COUNTS TO  
8 RUN CONCURRENTLY.

9 MR. MCLEOD, WE'RE NOW GOING TO HAND YOU COPIES OF THE  
10 CONDITIONS THAT THE COURT IMPOSED. THAT'S IMPORTANT PAPERWORK,  
11 SIR, FOR YOU TO KEEP FOR YOUR REFERENCE.

12 IS THERE ANYTHING ELSE, MS. MORGAN, MS. KAISER,  
13 PROBATION?

14 MS. MORGAN: YOUR HONOR, I JUST NEED TO PERFECT MY  
15 RECORD FOR APPEAL. WE DO OBJECT TO BOTH THE SUBSTANTIVE AND  
16 THE PROCEDURAL REASONABLENESS OF MR. MCLEOD'S SENTENCING. OUR  
17 PROCEDURAL GROUNDS ARE BASED ON THE DENIAL OF OUR OBJECTIONS TO  
18 THE PRESENTENCE REPORT THAT THE COURT PREVIOUSLY RULED ON, AND  
19 OBVIOUSLY WE ARE ALSO OBJECTING TO THE SUBSTANTIAL -- THE  
20 SUBSTANTIVE REASONABLENESS OF THE SENTENCE.

21 THE COURT: ANYTHING YOU WANT TO SAY WITH REGARD TO  
22 THAT, MS. KAISER?

23 MS. KAISER: YOUR HONOR HAS INDICATED YOUR HONOR HAS  
24 READ AND CONSIDERED ALL THE FILINGS, AND THIS HAS BEEN A VERY  
25 LONG HEARING, AND YOUR HONOR HAS PAINSTAKINGLY GONE THROUGH ALL

1           OF THIS, SO WE THANK YOUR HONOR FOR YOUR TIME AND  
2           CONSIDERATION.

3                   THE COURT:   THANK YOU.   THANK YOU TO EVERYBODY WHO CAME  
4           THIS MORNING.

5           (THE HEARING CONCLUDED.)

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11                           C E R T I F I C A T E  
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13                   I, GAYLE WAKEFIELD, CERTIFY THAT I AM A DULY  
14           QUALIFIED AND ACTING OFFICIAL COURT REPORTER FOR THE UNITED  
15           STATES DISTRICT COURT, THAT THE FOREGOING IS A TRUE AND  
16           ACCURATE TRANSCRIPT OF THE PROCEEDINGS AS TAKEN BY ME IN THE  
17           ABOVE-ENTITLED MATTER ON JANUARY 6, 2016; AND THAT THE FORMAT  
18           USED COMPLIES WITH THE RULES AND REQUIREMENTS OF THE UNITED  
19           STATES JUDICIAL CONFERENCE.

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25           DATED:   FEBRUARY 22, 2016                   /S/ GAYLE WAKEFIELD  
  GAYLE WAKEFIELD, RPR, CRR  
  OFFICIAL COURT REPORTER